

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 1, 2008

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on December 1, 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:

Alex E. Patton, Chairman
Bruce Carlton, Vice Chairman
George Arena
James A. Klein
Carrol Mitchem

Planning Board Members Present:

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

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Fred Hatley, Clerk of Court
Kelly Atkins, Building and Land Development Director
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director
Steve Gilbert, Public Works Director
Barry McKinnon, Sr. Utility Engineer

Call to Order: George Wood, County Manager, called the December 1, 2008, meeting of the Lincoln County Board of Commissioners to order.

Invocation: Pastor Brian Williams of Highland Drive Freewill Baptist Church gave the Invocation and led in the Pledge of Allegiance.

INDUCT BOARD OF COMMISSION MEMBERS

By Fred Hatley, Clerk of Court

Alex Patton
Carrol Mitchem

George Arena

Fred Hatley, Clerk of Court, Administered the Oath of Office to the newly elected Commission members, Alex Patton, Carrol Mitchem, and George Arena.

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

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

I, Alex 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 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.

Alex Patton

Subscribed and sworn to before me this 1st day of December, 2008, as witness my hand.

Fred Hatley, Clerk of Court

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

I, Carrol Mitchem, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

I, Carrol Mitchem, 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, Carrol Mitchem, 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.

Carrol Mitchem

Subscribed and sworn to before me this 1st day of December, 2008, as witness my hand.

Fred Hatley, Clerk of Court

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

I, George Arena, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

I, George Arena, 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, George Arena, 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.

George Arena

Subscribed and sworn to before me this 1st day of December, 2008, as witness my hand.

Fred Hatley, Clerk of Court

Election of Chair: George Wood, County Manager, opened the floor to nominations for Chairman.

Commissioner Carlton nominated Commissioner Alex Patton as Chairman.

Commissioner Carlton motioned that the nominations be closed, and Commissioner Patton be elected as Chairman.

Vote: Unanimously approved.

Chairman Patton thanked his fellow Commissioners for electing him Chairman, the citizens for reelecting him to the Board of Commissioners and his wife for her support.

Election of Vice Chairman: Chairman Patton conducted the election of Vice Chairman.

Commissioner Klein nominated Commissioner Bruce Carlton for Vice Chairman.

Commissioner Klein motioned that the nominations be closed, and Commissioner Carlton be elected as Vice Chairman.

Vote: Unanimously approved.

Recognition of Commissioner Service: Chairman Patton presented a plaque to outgoing Commissioner Tom Anderson. He read a list of Boards, Committees, and Commissions that Tom Anderson served on during his eight years as a Commissioner.

Tom Anderson stated that it has been his high privilege and honor to serve as a member of the Lincoln County Board of Commissioners for the last eight years. He stated that he has served with several different Commissioners and he thanked each one of them for their understanding of and their patience with his shortcomings and reported stealth management style as he sought to discharge his duties and responsibilities as Commissioner. He thanked Chairman Jerry Cochrane for all that he taught him and stated that he hopes he has not failed the lessons he sought to embark. He thanked the Board members for the honor of electing him as Chairman for four years and for their unfailing support as the Board tried to do what was right for the citizens of Lincoln County. Mr. Anderson gave special thanks to Amy Atkins. He stated that she is a lady in the words of Steve Isaac that is simply amazing. He said the citizens of Lincoln County are fortunate to have a lady with such grace and patience serving the Board of Commissioners. He stated that it is extraordinarily difficult to have five bosses that potentially change every two years and retain your sanity let alone the ability to deal with sometimes agitated citizenry in a pleasant, helpful way. He said that she has done both of these things with a smile and pleasantness that is absolutely remarkable. Mr. Anderson stated that he has only worked with George Wood for a relatively short time, but he expressed his sincere appreciation for his professional and straightforward manner with which he has discharged his duties. He said that Mr. Wood has told the Board what they need to hear and provided facts upon which the Board can make informed decisions. He said that such direct advice is invaluable. He thanked Mr. Wood for his service. Mr. Anderson stated that Councilman Taylor has never hesitated to tell the Board when it was about to err and he is quite sure that he prevented the Board from making some really bad decisions along the way. He stated that Mr. Taylor is extremely knowledgeable in the area of local government matters and the Board is fortunate to have him. Mr. Anderson

thanked the employees of each and every county department for their service to the citizens of Lincoln County. He stated that on those occasions that he brought concerns to any department, they have never failed to address those concerns. He thanked the citizens who serve on county boards, committees, and commissions and Commissioner Klein for the level to which he has raised participation on these boards. Mr. Anderson stated that as we gather here tonight, we have men and women in our armed services standing throughout the world in defense of our country for the values we stand for. Commissioners Patton, Carlton, and Arena have sons in the service at this time. One of the values is the right to elect those that represent us at all levels of government by casting our vote. Mr. Anderson stated that he has been and always will be humbled by the fact that so many citizens of Lincoln County sought fit to honor him with their vote during several elections. He thanked the citizens for the high honor. Mr. Anderson thanked his son, daughter and four grandchildren for their patience and understanding the last eight years. He said it can on occasion be unpleasant to be the children and grandchildren of those in public office. He stated that they have always supported him and been a good sounding board when asked for their thoughts. Mr. Anderson stated that he does not have words to tell his lovely wife Lynn how much her support and love has meant to him the last 44 years. He stated that she is a lady of great intelligence, strength, patience, and unbelievable compassion. He said that he could not have served the last eight years without her unconditional support and ability to keep reality in focus. He thanked Lynn for being the foundation and strength of their family. He thanked everyone for their patience with his comments and bid farewell.

Chairman Patton stated that although Marie Moore was not in attendance, he would like to thank her for her service to Lincoln County.

Chairman Patton called for a recess and announced that the meeting would resume in the Commissioner's Room on the third floor.

Chairman Patton called the meeting back to order.

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

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the agenda.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

DECEMBER 1, 2008

6:30 PM Call to Order – County Manager

Invocation – Pastor Brian Williams
Highland Drive Freewill Baptist Church

Pledge of Allegiance

Induct Board of Commission Members
By Fred Hatley, Clerk of Court
Alex Patton
Carrol Mitchem
George Arena

Seating of Board

Election of Chair

Election of Vice-Chair

Recognition of Commissioner Service

Public Congratulations – The Board will recess for 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 Consent Agenda
 - Tax Requests for Releases – October 16 – November 15, 2008
 - Sponsored Group Status
 - Gideon-Pastor's Banquet
 - Sandy Ridge Baptist Church
 - Approval of Minutes
 - November 17, 2008

4. 7:35 PM New Business/Advertised Public Hearings

CZ #2008-4 Ronnie Caldwell, applicant (Parcel ID# 29852 and 29863) A request to rezone 1.5 acres from R-SF (Residential Single-Family) and CU B-N (Conditional Use Neighborhood Business) to CZ B-N (Conditional Zoning Neighborhood Business) to permit an office complex consisting of a 4,400-square-foot building to be constructed and an existing house that already contains offices. The property is located at 6596 Campground Road in Catawba Springs Township.

5. 8:00 PM Public Comments

6. 8:15 PM Bidding, Contract Administration, and Construction Observation (inspection) on the Killian Creek WWTP
7. 8:25 PM Other Business

Adjourn

****This meeting will begin in the Auditorium****

Adoption of Rules of Procedure: Chairman Patton presented the Rules of Procedure for the Board to consider.

Commissioner Mitchem asked how the Board felt about adding the requirement of a second to a motion. Commissioner Carlton stated that he is fine with it is now.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the 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 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 6:30 PM. 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 *Eleven days (see Clerk's schedule for deadlines)* 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 *seven* days 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.

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

- Tax Requests for Releases – October 16 – November 15, 2008

NAME	YEAR	A/C NO	AMOUNT
Ashland Inc.	2008	0213552	\$149.68
Backhaus, Kenneth Dean	2008	0215026	\$161.71
Becker, Richard P	2007	0205691	\$200.47
Brown, Michael Dennis	2008	0116734	\$105.86
Canipe, David Eugene	2008	0169672	\$190.18
Cowart, David M	2008	0172973	\$130.37
CR Installations	2008	0205389	\$174.42
Daimler Trust	2008	0213310	\$371.83
Dourthe, Jose Alejandro	2008	0214664	\$107.18
Eaid LLC	2008	0214609	\$767.20
Edwards, David Eugene	2008	0176957	\$189.16
Farley, Frederic Alistair	2008	0214071	\$118.40
Faucette, Jefferson H	2008	0141547	\$218.34

Geitner, Terrence John	2008	0184475	\$267.20
Hawkins, Jonathan Ray	2007	0162075	\$119.46
Kelly, Ricky Dean	2008	0214790	\$220.69
Lycoming Auto Trust	2008	0206176	\$126.36
Maceloed Construction Inc.	2008	0098225	\$20,638.11
McDonald, Suzanne Wright	2005	0108482	\$121.48
Mull, Reginald	2006	0183628	\$157.08
South East Group PA	2008	0196446	\$188.01
Strickland, Tony Roy	2008	0213426	\$113.89
Wilson, Sherry Lynn	2008	0214818	\$153.91
Yates, Charles Lawrence	2008	0214938	\$170.75
TOTAL			\$25,161.74

NAME	YEAR	A/C NO	AMOUNT
Anderson, Thomas R	2008	17556	\$111.96
Ayers, Joel Shannon	2008	0177639	\$475.50
Beijing Palace Restaurant	2007	0133003	\$356.95
C & M Land Co.	2004	26284	\$245.28
Farley, Cynthia Hood	2008	0123865	\$606.53
Green Thumb Lawn Maintenance	2005-2007	0179032	\$685.50
J & S Masonry	2008	0157629	\$150.52
Mabe, Ladonna	2008	0193601	\$252.89
Matlock, Mike	2008	0213853	\$161.81
Mike Rogers Motorsports LLC	2006-2008	0187414	\$3,717.27
SBA Towers Inc.	2002-2007	0158504	\$3,065.68
Sterling Travel	2007	0178226	\$134.70
Taylors Fish Lake DBA	2007-2008	0126255	\$500.50
TOTAL			\$10,465.09

- Sponsored Group Status
 - Gideon-Pastor's Banquet
 - Sandy Ridge Baptist Church
- Approval of Minutes
 - November 17, 2008

New Business/Advertised Public Hearings:

Chairman Patton announced that this was the date, Monday, December 1, 2008, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on November 21 and 28, 2008.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, December 1, 2008, at 6:30 p.m. to consider the following matter:

CZ #2008-4 Ronnie Caldwell, applicant (Parcel ID# 29852 and 29863) A request to rezone 1.5 acres from R-SF (Residential Single-Family) and CU B-N (Conditional Use Neighborhood Business) to CZ B-N (Conditional Zoning Neighborhood Business) to permit an office complex consisting of a 4,400-square-foot building to be constructed and an existing house that already contains offices. The property is located at 6596 Campground Road 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.

CZ #2008-4 Ronnie Caldwell, applicant: Randy Hawkins presented the following information concerning CZ #2008-4:

The applicant is requesting the rezoning of 1.5 acres from R-SF (Residential Single-Family) and CU B-N (Conditional Use Neighborhood Business) to CZ B-N (Conditional Zoning Neighborhood Business) to permit an office complex consisting of a 4,400-square-foot building to be constructed an existing house that already contains offices. If this request is approved, the development of this property would be governed by the B-N district's regulations, the approved site plan and building elevations, and any additional rules and conditions that may be imposed. The larger parcel of this property was rezoned from R-SF to CU B-N in December 2005 to permit the use of the existing house as offices.

The property is located on the east side of Campground Road about 450 feet north of Hwy. 16 in Catawba Springs Township. It is adjoined by property zoned R-SF and R-S (Residential Suburban). Lane uses in this area include residential and commercial. County water and sewer are available at this location. The Lincoln County Lane Use Plan classifies this area as Mixed Residential/Commercial. These are areas intended to become true mixed-use villages consisting of higher-density residential uses and associated small-scale and pedestrian-oriented office and retail uses, with new developments designed to blend in and transition well with the neighborhoods in which they are located.

Chairman Patton opened the public hearing concerning Conditional Zoning No. 2008-Ronnie Caldwell, applicant.

Being no speakers, Chairman Patton declared the public hearing closed.

The Planning Board recessed their meeting on the 2nd floor balcony.

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

Bidding, Contract Administration, and Construction Observation (inspection) on the Killian Creek WWTP: Mr. Wood presented the following information:

Mr. Wood stated that we have split the work of constructing the Killian Creek WWTP and the pump station, gravity sewer lines, and force mains into two separate contracts. The reason for this is that they are two different types of construction projects, requiring different skills. The pump station, force mains, and gravity sewer lines that will connect the existing sewer system to the new Killian Creek WWTP can be done by a qualified sewerline construction contractor. The new Killian Creek WWTP is a far more complicated construction job, requiring an enormous amount of concrete pouring and finishing, installation of electrical and mechanical components, and an office/lab building. We are in the process of receiving responses to our Request for Qualifications in order to pre-qualify acceptable bidders on both these contracts. Those responses are due in December 4th, at which time W.K. Dickson is to review them in depth, check references and financial condition, and recommend with firms will be allowed to bid on the job. This is to assure that we get a quality firm with experience in handling a large WWTP project; and another to handle a fairly large sewerline/pump station project. We should have the permit from DENR any day, which will give us the authority to proceed with bidding and award of a construction contract. We plan to go out for bids with the pre-qualified companies in January, 2009. The construction period is for 16 months.

He stated that we need to finish the remaining work, which is bidding the project out, construction administration, and full-time construction observation (inspection) on the WWTP and the pump station. Also, the construction of a new plant requires a very detailed Operations Manual, that details how the various components in the plant work, and should be maintained. It is the operations guide for the entire plant. This takes a lot of manpower to create, and must be approved by DENR as well. It is included in this contract also. These items need to be contracted out to an engineering firm, preferably the one that has designed the plant and is intimately familiar with the details. Given that, Mr. Wood and Steve Gilbert negotiated the contract with W. K. Dickson for these final services.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the contract for Killian Creek Wastewater Treatment Plant (WWTP), Pump Stations, Force mains and Gravity Sewers Construction Administration.

Other Business: Mr. Wood reminded the Board that the Committee that deals with water regulations will continue the two day per week water usage.

Recess: **UPON MOTION** by Commissioner Klein, the Board voted to recess to December 8, 2008 at 8:30 a.m. at the EDA Building for the retreat.

Amy S. Atkins, Clerk

Alex Patton, Chairman

Board of Commissioners

Board of Commissioners