

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 7, 2002

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session with the Planning Board on October 7, 2002 at the Citizens Center, Commissioner's Room, Third Floor, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Jerry W. Cochrane, Chairman
Beth Saine, Vice Chair
Thomas R. Anderson, PE
Larry S. Craig
David P. Choate

Planning Board Members Present:

Jerry Geymont, Chairman
Mike Baker, Vice Chairman
Darrell Harkey
Stanley Roseboro
John Pagel
Terry Whitener
Gerald Johnson

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of BALD
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Cochrane called the October 7, 2002 meeting of the Lincoln County Board of Commissioners to order and welcomed everyone present.

Chairman Cochrane gave the invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Craig, the Board voted unanimously to adopt the agenda adding Item 8a – Resolution Concerning a Road at the Industrial Park and deleting Conditional Use Permit No. 209 – AT&T Wireless, applicant.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARINGS

OCTOBER 7, 2002

	6:30 PM	Call to Order
	6:31 PM	Invocation
	6:34 PM	Pledge of Allegiance
1.	6:35 PM	Adoption of Agenda
2.	6:36 PM	Approval of Minutes - August 19, 2002 - August 28, 2002
3.	6:40 PM	New Business/Advertised Public Hearings

ZMA #424 Paul Sisk, applicant (Parcel ID# 52888) The applicant is requesting to rezone one acre from Neighborhood Business (B-N) to Residential Suburban (R-S). The property is located at 2259 Gastonia Hwy., Lincolnton. It is part of a 12.9-acre parcel, the remainder of which is zoned Residential Suburban.

CUP #207 Crystal Smith, applicant (Parcel ID# 18169) The applicant is requesting a conditional use permit in order to construct a private residential quarters, an accessory dwelling not rented or occupied for gain, in the Residential Suburban (R-S) district. The 1.44-acre parcel, owned by Roger Glance, is located at 2954 Laboratory Road, Lincolnton.

ZMA #425 John Rollins, applicant (Parcel ID# 18601) The applicant is requesting to rezone a 1.24-acre parcel from Residential Suburban (R-S) to General Business (B-G). The property is located at 3203 Gastonia Hwy., Lincolnton.

ZMA #426 Reginald Robinson, applicant (Parcel ID# 50840 and 50862) The applicant is requesting to rezone 0.47 acres from Residential Suburban (R-S) to Neighborhood Business (B-N). The property is located at 1139 Buffalo Shoals Road, Lincolnton.

CUP #208 John Vanderbilt, applicant (Parcel ID# 70421) The applicant is requesting a conditional use permit for a private residential quarters, a detached garage with a guest room, in the Residential Suburban (R-S) district. The 0.73-acre parcel is

located at 130 Fox Crossing Court, Denver, in the Hunters Bluff subdivision.

ZMA #427 Brocato LLC (Parcel ID# 74804) The applicant is requesting to rezone a 2.5-acre parcel from Planned Mixed Use (P-MU) to General Business (B-G). The property is located on the south side of Highway 73, a quarter mile east of Highway 16, in Catawba Springs Township.

CUP #209 AT&T Wireless, applicant (Parcel ID# 26381) The applicant is requesting a conditional use permit in order to erect a 200-foot telecommunication tower in the Transitional Residential (R-T) district on a 69-acre tract of land located on Vesuvius Furnace Road in Ironton Township and owned by Raymond and Valerie Wilkinson.

ZMA #428 Norman Plantation Inc., applicant (Parcel ID# 34517) The applicant is requesting to rezone a 8.19-acre parcel from NeighborhoodBusiness (B-N) to General Business (B-G). The property is located on the west side of Highway 16, three-tenths of a mile north of Highway 73, in Catawba Springs Township.

4. 7:55 PM Highway 16 Recommendations
5. 8:05 PM Public Hearing on a Proposed Ordinance to Allow Lincoln County to Regulate and Enforce Restrictions on Water Usage in the County During Times of Shortage
6. 8:15 PM Public Hearing on a Proposed Ordinance and Agreement to Award a Franchise for the Operation of a Construction and Demolition Debris Landfill to BFI
7. 8:25 PM Fall Litter Sweep 2002 – Erma Deen Hoyle
8. 8:30 PM Bids for Roll-off Truck – John Avery
9. 8:40 PM Request for Vehicle – Stan Kiser
10. 8:50 PM Resource Conservation and Development Presentation – Sylvia Wallace
11. 9:00 PM Voluntary Agricultural District Ordinance – Ron Bost
12. 9:10 PM LEPC Bylaws – Susan Spake
13. 9:20 PM Courthouse Antennae Discussion – Susan Spake

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| 14. | 9:30 PM | West Nile Update – Maggie Dollar |
| 15. | 9:40 PM | Pathways Resolutions |
| 16. | 9:50 PM | Centralina Council of Government Proposal Concerning Regional Water Plan |
| 17. | 10:00 PM | Contract Amendment – Water Plant Expansion |
| 18. | 10:10 PM | Other Business |
| | | Adjourn |

Approval of Minutes – September 23, 2002: Chairman Cochrane presented the minutes of the September 23, 2002 meeting for the Board's approval.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the September 23, 2002 minutes with the following correction:

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

Recognition of Mike Lane: Chairman Cochrane read the following Resolution Honoring Mike Lane.

RESOLUTION HONORING MIKE LANE

WHEREAS, Mike Lane has worked for Lincoln County since January 16, 1984; and

WHEREAS, Mr. Lane has diligently fulfilled his duties and responsibilities as a County employee during his eighteen years of service; and

WHEREAS, Mike Lane has time and again demonstrated his loyalty and dedication to Lincoln County; and

WHEREAS, Mr. Lane's excellent craftsmanship and woodworking skills can be seen throughout all county buildings, in desks, bookshelves, workstations, computer stands and printer tables he has built; and

WHEREAS, Mike Lane has thorough knowledge of building maintenance and his department provides very cost effective maintenance services due to the fact that he goes out of his way to save money on every project; and

WHEREAS, Mr. Lane often takes projects home to work on when the county does not have the proper equipment, brings his equipment to work when needed, and uses his home computer to work on presentations and other related paperwork, which are all examples of cost savings for Lincoln County; and

WHEREAS, Mike Lane is always thinking ahead to achieve long lasting quality service from all equipment at a low cost to the county.

WHEREAS, Mike Lane is a very deserving, highly respected, well-known and well-liked County employee.

NOW, THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners would like to express their appreciation to Mike Lane for going above and beyond the call of duty for his dedication and devotion to Lincoln County.

This the 7th day of October, 2002.

Jerry W. Cochrane, Chairman
Board of Commissioners

Amy S. Long
Clerk to the Board of Commissioners

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, October 7, 2002 and the time, which was advertised in the *Lincoln Times-News* on Friday, September 27 and October 4, 2002

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, October 7, 2002, at 6:30 p.m. to consider the following zoning-related matters:

CUP #209 AT&T Wireless, applicant (Parcel ID# 26381) A request for a conditional use permit to erect a 200-foot telecommunication tower in the Transitional Residential (R-T) district on a 69-acre tract of land located on Vesuvius Furnace Road in Ironton Township and owned by Raymond and Valerie Wilkinson.

PCUR #88 Helen Sain and Timothy Sain, applicants (Parcel ID# 70258 and 74411) A request for a parallel conditional use rezoning to rezone 7.84 acres from Residential Suburban (R-S) to Transitional Residential (R-T) to permit a riding stable. The property is located on Hill Road in Ironton Township.

ZMA #429 Todd McConnell, applicant (Parcel ID# 28065) A request to rezone 0.5 acres from Residential Suburban (R-S) to General Business (B-G). The property is located on Brent Trail off Highway 150 East in Ironton Township.

ZTA #432 Lincoln County, applicant. A proposal to amend Chapter 12 of the Lincoln County Zoning Ordinance to add special regulations to apply to new development on any lot in a business or industrial district or commercial section of a planned mixed-used district which abuts old Highway 16 and to any lot which abuts old Highway 16 and which is rezoned from residential to business or industrial. The proposed regulations include requirements for providing

landscaping along the road right-of-way and for paving driveways and parking areas, and would prohibit chain link fences along the highway and metal siding on the front of buildings.

ZMA #433 Kenneth and Carolyn Temple, applicants (Parcel ID# 30088) A request to rezone a 1.49-acre parcel from Residential Single-Family (R-SF) to General Business (B-G). The property is located at 2558 Hwy. 16 North, Denver.

ZTA #434 Lincoln County, applicant. A proposal to amend Section 16.7 of the Lincoln County Zoning Ordinance to state that each day of a zoning violation shall be considered a separate offense if the violation is not corrected within 20 days after notice is given, to set the civil penalties for violating the ordinance at \$25 for a first citation and \$50 per day for a second and subsequent citations, and to stipulate that the Zoning Administrator may extend the specified time limit for correcting violations as reasonably necessary.

JOA #1 Lincoln County, applicant. A proposal to amend Article 13 of the Lincoln County Junkyard Control Ordinance to make the enforcement provisions consistent with those of the Lincoln County Zoning Ordinance.

ZTA #435 Lincoln County, applicant. A proposal to amend Section 10.11.2 of the Lincoln County Zoning Ordinance to change the requirements under which nightclubs may be permitted as a conditional use in the General Business (B-G) district. The proposed change would state that no such establishment shall be located within 500 feet of a church, elementary or secondary school, day care center, public park or public library.

ZTA #436 Lincoln County, applicant. A proposal to amend Sections 10.11.2 and 10.12.2 of the Lincoln County Zoning Ordinance to change the requirements under which adult establishments may be permitted as a conditional use in the General Business (B-G) and General Industrial (I-G) districts. The proposed change would state that no such establishment shall be located within 1,000 feet of a church, elementary or secondary school, day care center, public park or public library.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Parallel Conditional Use Rezoning No. 88 – Helen and Timothy Sain, applicants:
Having been sworn by the Clerk, the following individuals presented information.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Rezoning No. 88 – Helen and Timothy Sain, applicants.

The applicants are requesting a parallel conditional use rezoning to rezone 7.84 acres from Residential Suburban (R-S) to Transitional Residential (R-T) to permit a riding stable.

The property is located on Hill Road in Ironton Township. It is adjoined on the north by property zoned Transitional Residential, on the east and west by property zoned Residential Suburban, and on the south by property zoned Residential Single-Family (R-SF) and Residential Suburban.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to allow Commissioner Beth Saine to not participate now or in future discussions.

Chairman Cochrane opened the public hearing concerning Parallel Conditional Use Rezoning No. 88 – Helen Sain and Timothy Sain, applicants.

Helen Sain stated that she owns the property and they want to build a barn, which is already started, to have horses. She asked her neighbors in the audience to raise their hands if they are in favor of this.

Tim Sain stated that he wants to build a barn. He stated that he has 3 kids and this will be something for them to do to keep them out of trouble. The barn is back out of sight of everybody. This will not be a riding stable, it's just for boarding. He stated that they will not be blowing up and down the sides of the roads. This property will eventually be all fenced in and will not hurt anybody.

Commissioner Anderson asked if there were any watershed issues.

Kelly Atkins stated that there were not.

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

Zoning Map Amendment No. 429 – Todd McConnell, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 429 – Todd McConnell, applicant.

The applicant is requesting to rezone 0.5 acres from Residential Suburban (R-S) to General Business (B-G). The property is part of a 2.1-acre parcel that he plans to subdivide.

The property is located on Brent Trail off Highway 150 East in Ironton Township. It is adjoined on the west by property zoned Neighborhood Business (B-N) and on the north, east and south by property zoned Residential Suburban.

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 429 – Todd McConnell, applicant.

Louis McConnell stated that he is speaking on Todd's behalf. He stated that they plan on doing light automotive work out of the garage, but do not intend on disrupting the community.

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

Zoning Map Amendment No. 432 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 432.

This is a proposal to amend Chapter 12 of the Lincoln County Zoning Ordinance to add special regulations to apply to new development on any lot in a business or industrial district or commercial section of a planned mixed-used district which abuts old Highway 16 and to any lot which abuts old Highway 16 and which is rezoned from residential to business or industrial. The proposed regulations include requirements for providing landscaping along the road right-of-way and for paving driveways and parking areas, and would prohibit chain link fences along the highway and metal siding on the front of buildings.

This proposal is based on recommendations that were approved by the Highway 16 Committee, a group of citizens that held a number of meetings last year to consider the future use and appearance of existing Highway 16.

In regard to zoning regulations, the committee recommended the following:

- Request that the County adopt a landscape plan for new construction that would help create a main street theme. Any landscape plan should consider safety first. The landscape plan should be kept simple to avoid unreasonable cost to landowner.
- Some requirements as to the quality of fences used on street side of buildings, between building and road. Chain link fences not to be allowed.
- Gravel driveways on future construction not be allowed. Currently only the first 15 feet of turnouts must be paved.
- Metal buildings to have front façade of material other than metal with the exception of the trim.

Following is the full text of the proposed amendment:

Section 12.1.11 Special Regulations Along Old Highway 16

The following regulations shall apply to new development on any lot in a business or industrial district or commercial section of a planned mixed-use development which abuts old Highway 16 and to any lot which abuts old Highway 16 and which is rezoned from residential to business or industrial:

1. Landscaping

Landscaping shall be provided along the length of the first eight (8) feet of the front yard as measured perpendicular from the edge of the road right-of-way. Such landscaped area shall consist of any combination of trees, shrubs, grass or other decorative or vegetative ground cover provided, however, that a minimum of one small tree per twenty-five (25) feet of linear road frontage be planted. No portion of this landscaped area shall contain bare soil. No impervious surface shall be allowed in this area except for driveways connecting the lot to the point of ingress and egress, sidewalks, boundary fences or walls, mailboxes, newspaper boxes, school bus shelters, and fountains. Landscaping shall comply with N.C. Department of Transportation sight triangle provisions for street intersections and driveways.

2. Fences

No chain link fences shall be allowed between the edge of the road right-of-way and the front of the principal building. Any fences placed in this area shall be made of wood, vinyl, wrought iron or other material approved by the Zoning Administrator or his designee.

3. Driveways and Parking Areas

Driveways shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. The same requirement shall apply to parking areas required to have more than five parking spaces.

4. Building Facades

Metal siding shall not be allowed on the front of a building except for use as trim. Buildings shall be required to have a façade of brick, stone, wood or other material approved by the Zoning Administrator or his designee.

Commissioner Craig suggested that there be no shrubbery within the 10 foot right of way. He also voiced concerns over eliminating chain link fencing, but allowing wood fencing. He suggested eliminating all fencing. Commissioner Craig stated that there are no fences on Main Street in Lincolnton.

There was a discussion about what types of wood fencing would be allowed. Chairman Cochrane said that the definition should be more definitive.

Commissioner Anderson stated that some desirable companies may need a fence to secure it.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 432 – Lincoln County, applicant.

Greg Coffey, Co-president of ELBA, stated that he sent a letter to the Board urging support for ZTA# 432. He stated that they Highway 16 group deserves quite a bit of praise. He stated that he appreciates the Board's work and asked them to support this text amendment.

Susanne Sellers stated that she is Chair of an ELBA appointed Land Use Focus Group. They are in unanimous support of Doug Core's recommendations. The committee was a cross section of people who represented the area well. She stated that there are also 2 garden clubs that feel strongly and support this proposal.

Commissioner Craig stated that a letter will be mailed to the members of the Highway 16 Committee thanking them for their contributions.

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

Zoning Map Amendment No. 433 – Kenneth and Carolyn Temple, applicant:

Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 433 – Kenneth and Carolyn Temple, applicant.

The applicants are requesting to rezone a 1.49-acre parcel from Residential Single-Family (R-SF) to General Business (B-G).

The property is located at 2558 Hwy. 16 North, Denver. It is adjoined on the south by property zoned Neighborhood Business (B-N) and on the north, east and west by property zoned Residential Single-Family (R-SF).

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 433 – Kenneth and Carolyn Temple, applicant.

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

Zoning Text Amendment No. 434 – Lincoln County, applicant: Having been sworn by the Clerk, Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 434 – Lincoln County, applicant.

This is a proposal to amend Section 16.7 of the Lincoln County Zoning Ordinance to state that each day of a zoning violation shall be considered a separate offense if the violation is not corrected within 20 days after notice is given, to set the civil penalties for violating the ordinance at \$25 for a first citation and \$50 per day for a second and subsequent citations, and to stipulate that the Zoning Administrator may extend the specified time limit for correcting violations as reasonably necessary.

This proposal is designed to make the penalties section of the ordinance more consistent and simpler to administer.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 434 – Lincoln County, applicant.

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

Junkyard Ordinance Amendment No. 1 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Junkyard Ordinance Amendment No. 1 – Lincoln County, applicant.

This is a proposal to amend Article 13 of the Lincoln County Junkyard Control Ordinance to make the enforcement provisions consistent with those of the Lincoln County Zoning Ordinance. The proposed additions are shown in bold, with proposed deletions struck through.

ARTICLE 13 – ENFORCEMENT PROVISIONS

The Ordinance Administrator shall enforce this ordinance. He may call upon other agencies as necessary to assist in enforcement of this ordinance.

In addition, whenever the Administrator receives a complaint alleging a violation, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

The owner, tenant or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

The following procedure shall apply upon discovery of a violation:

If the Administrator finds that any provision of this ordinance is being violated, he shall send a **written notice warning citation** to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

A **written notice-warning citation** shall be issued by the Ordinance Administrator giving the violator ~~30 10~~ days to correct the violation ~~or respond~~. ~~Initial notice of violation may serve as said notice. The violator may submit to the Ordinance Administrator a written request for extension of the order's specified time limit for correction of the violation. On determining that the request contains enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Ordinance Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.~~

The ~~final~~ **written notice warning citation** shall establish the facts and state what action the Administrator intends to take if the violation is not corrected. Furthermore the violator shall be informed of the method of appeal.

Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this Article.

Penalties and remedies for violations shall be as follows:

Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established, shall constitute a misdemeanor, punishable by a fine of up to \$50.00 or a maximum 30 days imprisonment as provided in G.S. 14-4.

B. Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements shall also subject the offender to a civil penalty of \$25.00 per violation. **Each day of violation shall be considered a separate offense, provided that the violation is not corrected within 20 days after notice of said violation is given. Subsequent citations for the same violation may be issued by the Ordinance Administrator unless the violator has appealed the actions of the Ordinance Administrator through the Board of Adjustment. The following penalties are hereby established:**

Warning citation **Correct violation within 10 days**

First citation \$25.00 (correct violation within 10 days)

Second and subsequent citations for same offense \$50.00 per day

If the offender fails to pay ~~this penalty the civil penalties~~ within 10 5 days after being cited for a violation, the ~~penalty~~ **penalties** may be recovered by the County in a civil action in the nature of a debt.

~~Each day that any violation continues after final notification by the Administrator that such violation exists may be considered a separate offense for purposes of the penalties and remedies specified in this Article.~~

This ordinance may also be enforced by any appropriate equitable action. Such remedy may include court order of abatement as part of a judgement in the cause. The abatement order may include removal of junk from illegal junkyards and other actions required to make the property comply with the provisions of this ordinance at the owner's expense.

Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this ordinance. In addition to the foregoing enforcement provisions, this Ordinance may be enforced by any remedy provided in G.S. 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed in G.S. 153A-123(e). This Ordinance specifically provides that each day's continuing violation may be a separate and distinct offense.

Chairman Cochrane opened the public hearing concerning Junkyard Ordinance Amendment No. 1 – Lincoln County, applicant.

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

Zoning Text Amendment No. 435 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 435 – Lincoln County, applicant.

This is a proposal to amend Section 10.11.2 of the Lincoln County Zoning Ordinance to change the requirements under which nightclubs may be permitted as a conditional use in the General Business (B-G) district. The proposed change would state that no such establishment shall be located within 500 feet of a church, elementary or secondary school, day care center, public park or public library. The text amendment that was approved on Sept. 23 set the separation requirement at 200 feet and didn't include public library. This proposal would leave the separation requirement for residentially zoned property at 200 feet.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 435 – Lincoln County, applicant.

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

Zoning Text Amendment No. 436 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 436 – Lincoln County, applicant.

This is a proposal to amend Sections 10.11.2 and 10.12.2 of the Lincoln County Zoning Ordinance to change the requirements under which adult establishments may be permitted as a conditional use in the General Business (B-G) and General Industrial (I-G) districts. The proposed change would state that so such establishment shall be located within 1,000 feet of a church, elementary or secondary school, day care center, public park or public library. The text amendment that was approved on Sept. 23 set the separation requirement at 500 feet and didn't include public library. This proposal would leave the separation requirement for residentially zoned property at 500 feet.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 436 – Lincoln County, applicant.

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

Chairman Cochrane called for a brief recess.

Chairman Cochrane called the meeting back to order.

Public Hearing on a Proposed Ordinance to Allow Lincoln County to Regulate and Enforce Restrictions on Water Usage in the County During Times of Shortage: Steve Gilbert presented the proposed Ordinance to the Board. Mr. Gilbert reviewed the restrictions with Stage I, II, and III water shortage conditions.

Chairman Cochrane suggested possible changes to the Ordinance allowing water for birdbaths and eliminating using biodegradable and/or disposable dishes in Stage 1.

There was also discussion concerning a watering schedule, violation schedule and enforcement.

Chairman Cochrane opened the public hearing concerning the Proposed Ordinance to Allow Lincoln County to Regulate and Enforce Restrictions on Water Usage in the County During Times of Shortage.

UPON MOTION by Commissioner Craig, the Board voted unanimously to continue the public hearing until October 21, 2002 at 6:30 PM.

Public Hearing on a Proposed Ordinance and Agreement to Award a Franchise for the Operation of a Construction and Demolition Debris Landfill to BFI: This item was deferred.

Public Hearing – Voluntary Agricultural District Ordinance: Ron Bost reviewed the Ordinance with the Board.

Chairman Cochrane opened the public hearing concerning the Voluntary Agricultural District Ordinance.

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

LINCOLN COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I TITLE

An ordinance of the Board of County Commissioners of LINCOLN COUNTY, NORTH CAROLINA, entitled, "VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE."

ARTICLE II POLICY & PURPOSE

The Lincoln County Board of Commissioners recognizes the critical need for proper management of environmental issues as Lincoln County faces growth in the coming years. It is the policy of Lincoln County to conserve, protect, and encourage the development, improvement and preservation of its agriculture land and forestland for the production of food, fiber and other products. When other land uses extend into agricultural and forest areas, agricultural and forestry operations often become the subject of nuisance suits. It is the purpose of this Ordinance to reduce potential nuisance suits by providing advance notice to surrounding landowners of the presence of voluntary agricultural districts and to encourage the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of the county.

ARTICLE III AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-744 and Chapter 153A.

ARTICLE IV **DEFINITIONS**

The following are defined for purposes of this ordinance:

Agricultural District Advisory Board: Lincoln County Agricultural District Advisory Board.

Chairperson: Chairperson of the Lincoln County Agricultural District Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Lincoln County Board of Commissioners.

Conservation Agreement: Agreement between agricultural operation (landowner) and Lincoln County prohibiting non-farm use.

ARTICLE V

AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners shall establish an Agricultural District Advisory Board to implement the provisions of this program.

B. Membership

The Agricultural District Advisory Board shall consist of no less than 7 members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each Advisory Board member shall be a Lincoln County resident. Each district shall be assigned to a member of the Board who shall monitor and represent that district in all business conducted by the Board. Individual members will represent those districts closest to them geographically.
2. At least 5 of the 7 members shall be actively engaged in farming.
3. The members actively engaged in farming, as well as other members, shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Lincoln Natural Resources Committee, the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension Service, the USDA Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.

D. Tenure

The initial board is to consist of 2 appointees for terms of one year; 2 appointees for terms of two years; and 3 appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted.

E. Vacancies

Any vacancy on the Agricultural District Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

F. Removal

Any member of the Agricultural District Advisory Board may be removed for cause by the Board of Commissioners subsequent to written charges being presented to the member and after consultation with the Agricultural District Advisory Board.

G. Funding

The *per diem* compensation, if any, for the members of the Agricultural District Advisory Board may be fixed by the Board of Commissioners and funds may be appropriated to the Agricultural District Advisory Board to perform its duties.

H. Agricultural District Advisory Board Procedure

1. Chairperson

The Agricultural District Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Agricultural Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

2. Jurisdiction

The Agricultural District Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

3. Agricultural District Advisory Board Year

The Agricultural District Advisory Board shall use the Lincoln County fiscal year as its meeting year.

4. Meetings

Meetings of the Agricultural District Advisory Board shall be held at the call of the chairperson and at such other times as the Agricultural District Advisory Board may specify in its rules of procedure or upon the request of at least a majority of the Agricultural District Advisory Board Membership. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by all Agricultural District Advisory Board members. Meeting dates and times shall be posted as far in advance as possible at the meeting site and by advertisement in local newspapers or by other means of public dissemination of

the meeting dates as may be agreed upon by at least a majority of the Agricultural District Advisory Board Membership. All meetings shall be open to the public. A quorum of the Agricultural District Advisory Board must be present to conduct business.

5. Majority Vote

The concurring vote of a majority of the members of the Agricultural District Advisory Board present shall be necessary to decide in favor of an applicant; or to pass upon any other matter on which it is required to act under this ordinance. To reverse any order, requirement, decision or determination of the Agricultural District Advisory Board the concurring vote of a majority of all members of the Agricultural District Advisory Board shall be necessary.

6. Records

The Agricultural District Advisory Board shall keep minutes of the proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Agricultural District Advisory Board and shall be a public record.

7. Administrative

The Soil and Water Conservation District will serve the Agricultural District Advisory Board for record keeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.

I. Duties

The Agricultural District Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
2. Conduct public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;
3. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
4. Review and make recommendations concerning proposed amendments to this ordinance;
5. Develop a county-wide farmland protection plan as defined in N.C.G.S. §106-744 (e) (1) for presentation to the Board of Commissioners;

6. Study additional methods of farmland conservation and make recommendations to the Board of Commissioners; and perform other agricultural related tasks or duties assigned by the Board of Commissioners.

ARTICLE VI **CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

A. Implementation

In order to implement the purposes stated in Article II, this program provides for the creation of voluntary agricultural districts that meet the following standards:

1. The District shall contain one or more qualified farms that contain a total of not less than 50 acres.
2. If a District consists of more than one qualifying farm, each farm must be within one mile of at least one other qualifying farm within the District.

B. Encourage Formation

The county may take such action as it deems appropriate through the Agricultural District Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

C. Withdrawal

In the event that one or more participants in the District withdraw and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

D. Display

The Districts shall be designated on county GIS mapping system and marked on county maps displayed for public view in the following county offices:

1. Register of Deeds
2. Building & Land Development
3. Tax mapping
4. Soil and Water Conservation District/NRCS
5. Cooperative Extension

ARTICLE VII **CERTIFICATION AND QUALIFICATION OF FARMLAND**

Requirements

To secure county certification as qualifying farmland, a farm must:

1. Be participating in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7;
2. Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as being a farm on which:
 - A. At least two-thirds of the land is composed of soils that:
 1. Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops;
 2. Have good soil qualities;
 3. Are favorable for all major crops common to the county where the land is located;
 4. Have a favorable growing season; and
 5. Receive the available moisture needed to produce high yields for an average of eight out of ten years.

OR

- B. At least two thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. §105-277.2 (1,2,3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies.
3. Be managed in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to highly-erodible land if highly erodible land exist on the farm; and
4. Be the subject of a conservation agreement, as defined in N.C.G.S. §121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

ARTICLE VIII
APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. **Application Procedure**

1. A landowner may apply to participate in the program by making application to the chairperson of the Agricultural District Advisory Board or a designated staff person. The application shall be on forms provided by the Agricultural District Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.

2. Subject to approval of the application, the landowner shall execute a conservation agreement per Article VII. Paragraph 4.

B. Approval Process

1. Upon submission of the application to the Agricultural District Advisory Board, the Agricultural District Advisory Board shall meet within sixty (60) days to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the agricultural district.
2. Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Agricultural District Advisory Board prior to the date set for the Agricultural District Advisory Board vote on the application.
 - a. The Lincoln County tax assessor;
 - b. The Lincoln Soil and Water Conservation District office; and
 - c. The Natural Resources Conservation Service.

The offices shall evaluate, complete and return their copies to the chairman within 30 days of receipt.

C. Appeal

If the Agricultural District Advisory Board denies an application, the petitioner shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX REVOCATION OF CONSERVATION AGREEMENT

By written notice to the Agricultural District Advisory Board, a landowner of qualifying farmland may revoke the Conservation Agreement or the Agricultural District Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article VIII for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. Absent noncompliance by the landowner, neither the Agricultural District Advisory Board nor the Board of Commissioners shall revoke any conservation agreements prior to its expiration.

ARTICLE X PUBLIC HEARINGS

A. Purpose

Pursuant to N.C.G.S. §106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying

farmland within a District until such agency or unit has requested the Agricultural District Advisory Board to hold a public hearing on the proposed condemnation, this ordinance provides for such hearings.

B. Procedure

1. Upon receiving a request, the Agricultural District Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Lincoln County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within thirty (30) days of receipt of the request.
2. The Agricultural District Advisory Board shall meet to review:
 - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. Within ten (10) days after the hearing, the Agricultural District Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
5. Pursuant to N.C. G. S. 106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Agricultural District Advisory Board within these time limitations.
6. Prior to initiating condemnation proceedings which would convert land in a District to non-farm uses: the county or any other local unit of government shall submit to the Agricultural District Advisory Board a statement that the governmental unit has considered alternatives to condemning farm land in the district.

ARTICLE XI
PUBLIC NOTIFICATION

A Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and to prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

B. Procedure

1. Upon certification of qualifying farmland and designation of real property as a District, the Agricultural District Advisory Board, in cooperation with the county, shall provide notification to property owners, residents and other interested persons in and adjacent to any designated agricultural district. The purpose of such notification is to inform all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery operations, livestock operations, forestry operations including logging and similar activities.

Types of Notification

- a. Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
- b. Maps identifying approved districts shall be provided to the Register of Deeds, the Soil and Water Conservation Office, the Cooperative Extension Office, Building & Land Development and Tax Mapping.
- c. The following notice shall be available for public inspections in the Register of Deeds Office:

NOTICE TO REAL ESTATE PURCHASERS IN LINCOLN COUNTY OF VOLUNTARY AGRICULTURAL DISTRICTS FOR FARMLAND CONSERVATION

Lincoln County has established voluntary agricultural districts for farmland conservation to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the County to inform all purchasers of real property that certain agricultural activities including, but not limited to, pesticide spraying, manure spreading, machinery operations, livestock operations, forestry operations including logging and similar activities may take place in these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from the Soil & Water Conservation District Office/NRCS, Register of Deeds, Cooperative Extension Service, Building & Land Development and Tax Mapping.

2. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

ARTICLE XII

SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts located within one-half aerial mile of the proposed development.

ARTICLE XIII

BUILDING PERMIT REGISTRATION

A. Signed Registration

Lincoln County shall require persons applying for a building permit to sign the following statement, which shall be maintained at the office of the Agricultural District Advisory Board:

“I have reviewed the most current Lincoln County Agricultural Districting Map found in the Register of Deeds office. I understand that activities such as pesticide spraying, manure spreading, machinery operation, livestock operations, logging and other common farming and forestry activities may occur at any time in these areas.”

ARTICLE XIV

WAIVER OF SEWER ASSESSMENTS

Pre-existing agricultural districts that exist before a new sewer district is established will be exempt from sewer assessment.

ARTICLE XV

CONSULTATION AUTHORITY

The Agricultural District Advisory Board may consult with the Lincoln Natural Resources Committee, North Carolina Cooperative Extension Service, Lincoln Soil And Water Conservation District, Natural Resources Conservation Service Office, North Carolina Department of Agriculture & Consumer Services and with any other individual, agency, or organization the Agricultural District Advisory Board deems necessary to properly conduct its business.

ARTICLE XVI

NORTH CAROLINA AGENCY NOTIFICATION

Annually Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the County Office of the North Carolina Cooperative Extension Service, and the Soil and Water Conservation District office after adoption. At least annually the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's agricultural district program, including the following information:

1. Number of landowners enrolled;
2. Number of acres applied;
3. Number of acres certified;
4. Number of acres denied;
5. Date certified;

ARTICLE XVII
LEGAL PROVISIONS

A. Severability

If any article, section, subsection, clause, phrase, or portion of this ordinance is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

B. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Lincoln County, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

C. Amendments

After notification and in consultation with the Agricultural District Advisory Board this ordinance may be amended from time to time by the Board of Commissioners.

ARTICLE XVIII
ENACTMENT

The Lincoln County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the _____ day of _____, 2002.

Motion for adoption by _____ and seconded by _____.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Chairperson

ATTEST:

Clerk to Board of Commissioners

Approved as to form:

County Attorney

UPON MOTION by Commissioner Choate, the Board voted unanimously to adopt the Voluntary Agricultural District Ordinance effective immediately.

Public Hearing – Incentive Grant for RSI Holding Corp.: Barry Matherly presented information concerning the Incentive Grant for RSI Holding Corp.

**LINCOLN COUNTY INCENTIVE GRANT
AGREEMENT**

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 7th day of October, 2002, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"); RSI HOLDING CORPORATION, a Delaware corporation (hereinafter referred to as "RSI"); and KEITH & KEITH, LTD., a North Carolina corporation, dba THE KEITH CORPORATION (hereinafter referred to as "Keith").

WITNESSETH:

WHEREAS, RSI and Keith has developed plans for expansion of their distribution facility in Lincoln County, North Carolina; and

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County's tax base and providing additional jobs for Lincoln County's citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect RSI and Keith to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before January 1, 2003, RSI and Keith shall begin expansion of their distribution facility in Lincoln County, North Carolina.
2. Within two years of the date of this agreement, RSI and Keith shall make an investment upon such site in building and equipment of \$3,500,000 of which \$3,200,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the date of this agreement, RSI and Keith shall provide at such site at least 30 new jobs paying average hourly wages of \$9.00 per hour.
4. In consideration of the performance of the aforesaid obligations by RSI and Keith, the County will provide cash grants to RSI and Keith of \$12,896 per year for a five-year period beginning in 2005. Such cash grants will be paid to RSI and Keith on the 15th day of January of the year following the first full year after completion of the new capital investment. This amount represents a Level 1 grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. In the event that the value of the investment actually made by RSI and Keith pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.
6. RSI and Keith specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, RSI and Keith shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

**RESOLUTION TO ADOPT ECONOMIC INCENTIVE
GRANT AGREEMENT WITH RSI HOLDING CORPORATION
AND KEITH & KEITH, LTD.**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, RSI Holding Corporation and Keith & Keith, Ltd., have developed plans for expansion of their distribution facility in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and

incorporated herein by reference) among Lincoln County, RSI Holding Corporation, and Keith & Keith, Ltd.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon adoption.

This 7th day of October, 2002.

Jerry W. Cochrane, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Long, Clerk to the Board

Chairman Cochrane opened the public hearing concerning the Incentive Grant for RSI.

UPON MOTION by Commissioner Saine, the Board voted unanimously to accept the Incentive Grant for RSI.

Resolution for Industrial Park Road: Barry Matherly presented the following resolution concerning using DOT discretionary funds to construct a road to Lot 12 in the Industrial Park so a shell building can be developed.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Resolution as presented.

**RESOLUTION SUPPORTING THE REQUEST AND USE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION DISCRETIONARY PROJECT FUNDS IN
CONSTRUCTING A ROAD TO LOT 12 IN THE
LINCOLN COUNTY INDUSTRIAL PARK**

WHEREAS, the Lincoln County Board of Commissioners believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development by expanding existing industry and recruiting new industry; and

WHEREAS, Lincoln County has made significant investments in new infrastructure improvements to retain and attract industry to the Lincoln County Industrial Park; and

WHEREAS, the Keith Corporation has presented a contract to Lincoln County for the construction of a shell building to attract manufacturing companies to the park; and

WHEREAS, a shell building will further economic growth and development in this rural area; and

WHEREAS, funds are needed to construct a road to Lot 12 before a shell building can be developed.

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners fully support the expenditure of North Carolina Discretionary Project Funds to construct a road to Lot 12 in the Lincoln County Industrial Park.

Approved this 7^h day of October, 2002

Jerry Cochrane, Chairman
Lincoln County Commissioners

ATTEST:

Amy S. Long, Clerk
Lincoln County Commissioners

Resolution Levying the Third One-half Cent (1/2cent) Local Government Sales and Use Tax and Prescribing the Method of Distribution of the Proceeds Within Lincoln County: Stan Kiser, County Manager, presented information concerning this Resolution. This tax will begin on December 1, 2002 if the Resolution is passed. Estimated revenues from this tax are \$1,215,737 for the current fiscal year. For fiscal year 2003-04, we would receive a full year of the collections, which is estimated at \$2,084,120. Our current state reimbursements that are frozen amount to \$1,700,454.

Commissioner Craig stated that this is a sorry way to do business. He said that the State of North Carolina has kept our money and forced us to raise the taxes to get it back, instead of them raising taxes.

Chairman Cochrane stated that if the Board does not enact this, property taxes will have to go up. He stated that it is not fair to continue putting the burden on property owners. He stated that he feels this is the fairest way to go.

UPON MOTION by Commissioner Anderson, the Board voted 4 – 1 (Commissioner Saine against) to approve the Resolution.

**County of Lincoln
The State of North Carolina**

October 7, 2002

**RESOLUTION LEVYING THE THIRD ONE-HALF CENT (1/2¢)
LOCAL GOVERNMENT SALES AND USE TAX AND PRESCRIBING
THE METHOD OF DISTRIBUTION OF THE PROCEEDS
WITHIN LINCOLN COUNTY**

WHEREAS, the General Assembly has authorized the Lincoln County Board of Commissioners to levy a one-half percent (1/2%) local sales and use tax by enacting N.C.G.S. 105-517(b) in Section 34.14(a) of Session Law 2001-424, as amended by S.L. 2002-123, "An Act to Accelerate the Additional One-half Cent (1/2¢) Local Option Sales and Use Tax and to Make Conforming and Technical Changes," and

WHEREAS, the Lincoln County Board of Commissioners gave proper public notice of the Board's intent to consider this resolution, as required by Section 10 of S.L. 2002-123, and

WHEREAS, Lincoln County has lost \$ 2,119,597 in funds made available by the State of North Carolina to replace revenue lost because of legislative action: (1) to repeal sales taxes imposed on purchases made with Food Stamps; (2) to repeal property taxes imposed on inventories held by manufacturers, retailers and wholesalers; (3) to repeal taxes on intangible personal property; and (4) to reduce taxes levied on residential property owned by low-income elderly taxpayers; and

WHEREAS, the Lincoln County Board of Commissioners hereby finds that, particularly in light of the circumstances cited herein, the levy of "The Third One-Half Cent (1/2¢) Local Government Sales and Use Tax" is necessary to adequately finance the operations of the county and the cities and towns herein.

NOW, THEREFORE, BE IT RESOLVED by the Lincoln County Board of Commissioners that:

(1) There is hereby imposed and levied within Lincoln County the third one-half cent (1/2¢) Local Government Sales and Use Tax authorized by Section 34.14(a) of S.L. 2001-424, as amended by S.L. 2002-123, and codified as Article 44 of Chapter 105 of the General Statutes of North Carolina. The tax hereby imposed and levied shall apply to the same extent and be subject to the same limitations as are set forth in said S.L. 2001-424.

(2) Collection of the tax by the North Carolina Secretary of Revenue, and liability therefore, shall begin and continue on and after the first day of December, 2002.

(3) The net proceeds of the tax levied herein shall be distributed by the Secretary of Revenue to Lincoln County as prescribed by N.C.G.S. 105-520. The amount distributed to Lincoln County shall be divided among the county and the municipalities herein in accordance with the method by which the one percent (1%) sales and use tax levied in Lincoln County, pursuant to Article 39 of General Statutes Chapter 105, are distributed.

(4) This Resolution is effective upon its adoption, and a certified copy hereof shall be forwarded to the North Carolina Secretary of Revenue.

Adopted this 7th day of October, 2002.

Jerry W. Cochrane, Chairman

ATTEST:

Amy S. Long, Clerk to the Board

Stan Kiser presented a request from Maggie Dollar requesting to use this additional sales tax money to make up for cuts previously made. He stated that this money is not additional money, just an attempt to plug the holes made by the state.

Change Order for East Lincoln Library – W.J. Waters, Jr.: W.J. Waters, Jr. presented Change Order No. 1, which includes adding \$424.00 to add extra rock in the temporary dam to keep water and dirt from washing off the property and for adding 21 days due to the delay in delivery of selected brick. Adding the additional 21 days will move completion date to February 27, 2003.

The second change order is to increase from a $\frac{3}{4}$ " to a 1" meter for the building, which causes an increase of \$500.00 for the tap fee and \$540.00 for the availability fee. It also impacts the sewer fee with an increase of \$900.00. The total cost to the project for these items is now \$11,240.00, an increase of \$1,940. No time extension is involved.

There was a discussion concerning the contingency on the project. The contingency is \$24,400 and is over and above the \$813,293.00.

There was discussion with Steve Gilbert, Director of Public Utilities, concerning the water and sewer for this building. He will call the Architect concerning the need for a 1" meter.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the first Change Order for \$424 and adding 21 days.

2003 Transportation Program Resolution – Erma Deen Hoyle: Erma Deen Hoyle presented the following Community Transportation Program Resolution.

Community Transportation Program Resolution

Applicant Seeking Permission to Apply for Community Transportation Program Funding,
Enter Into Agreement With The North Carolina Department of Transportation
And to Provide the Necessary Assurances.

A motion was made by Commissioner Beth Saine for the adoption of the following resolution and to set a public hearing for November 4, 2002 at 7:30 PM, which upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program and fully allocated costs analysis);

WHEREAS, Lincoln County hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relates to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE be it resolved that the Chairman of the Lincoln County Board of Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

2003 Holiday Schedule: Stan Kiser stated that the holiday schedule is virtually the same as last year with the addition of the Martin Luther King Holiday.

HOLIDAY	OBSERVED ON
New Years Day	Wednesday, January 1, 2003
Martin Luther King, Jr's Birthday	Monday, January 20, 2003
Good Friday	Friday, April 18, 2003
Memorial Day	Monday, May 26, 2003
Independence Day	Friday, July 4, 2003
Labor Day	Monday, September 1, 2003
Veteran's Day	Tuesday, November 11, 2003
Thanksgiving	Thursday November 27, 2003
Christmas	Friday, November 28, 2003
	Wednesday, December 24, 2003
	Thursday, December 25, 2003
	Friday, December 26, 2003

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the 2003 Holiday Schedule.

Other Business: **UPON MOTION** by Commissioner Saine, the Board voted unanimously to approve the Resolution Honoring Mike Lane.

Jeff Taylor, County Attorney, presented a request from a Lawyer in Chicago representing Vintas Realty Limited Partnership, current leaseholder for the Lincoln Nursing Center, who is asking the Board to establish a definite start date for the lease. The original lease was for 50 years. As best as they can tell the building was completed around April of 1977. They would like the Chairman to sign a document saying the start date of the lease was April 1, 1977.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the start date of April 1, 1997 for the lease on the Lincoln Nursing Center.

Chairman Cochrane suggested canceling one meeting in December. A decision will be made closer to that time.

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

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners