

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, MARCH 6, 2000**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on March 6, 2000 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 5:30 PM.

**Commissioners Present:**

James A. Hallman, Chairman  
Terry L. Brotherton, Vice-Chairman  
Beth H. Saine  
John R. Gamble, Jr.  
W. J. Waters, Jr.

**Planning Board Members Present:**

James Funderburk  
Dean Lutz  
Stanley Roseboro  
Ron Smith  
Gary Garlow  
Phil Hunt  
Eddie Sigmon  
Jerry Geymont

**Others Present:**

Jeffrey A. Taylor, County Attorney  
Amy S. Long, Clerk to the Board  
Kelly Atkins, Director of Building and Land Development  
Lee Lawson, Land Use Coordinator  
Sherry Mobley, Development Technician  
Sherry Seagle, Administrative Secretary  
Leon Harmon, Finance Director

**Call to Order:** Chairman Hallman called the March 6, 2000 meeting to order.

**Adoption of Agenda:** **UPON MOTION** by Commissioner Waters, the Board voted unanimously to approve the agenda with the deletion of Item 13 – Bonds for Sailview.

**AGENDA**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

**PUBLIC HEARINGS**

## **MARCH 6, 2000**

	5:30 PM	Call to Order
1.	5:30 PM	Adoption of Agenda
2.	5:30 PM	Approval of Minutes - February 21, 2000
3.	5:30 PM	Consent Agenda - Budget Adjustment 44
4.	5:40 PM	Appointment to the Planning Board – Commissioner Beth Saine
5.	5:45 PM	New Business / Advertised Public Hearing <ul style="list-style-type: none"><li style="margin-top: 10px;">- Conditional Use Permit No. 166 – Crystal Hope, applicant. Request for a Conditional Use Permit in order to accommodate a singlewide mobile home on property owned by Lovenia Finger. The property is zoned Residential Suburban (R-S) and is located at 571 Car Farm Road in Lincolnton, NC.</li><li style="margin-top: 10px;">- Conditional Use Permit No. 167 – Patti Mendiola, applicant. Request for a Conditional Use Permit in order to accommodate a single wide mobile home in a Residential Suburban (R-S) Zoning District with a Designated Highway Overlay (D-H) that is located on Highway 27 in Vale, NC.</li><li style="margin-top: 10px;">- Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant. Request for a Conditional Use Permit in order to accommodate an animal kennel on property owned by Triangle Crossroads, LLC. The property is zoned General Business (B-G) with a Designated Highway Overlay (D-H) and is located at 112 Highway 16 South in Denver, NC.</li><li style="margin-top: 10px;">- Zoning Text Amendment No. 327 – Amend Section 8.2.1-E to the Lincoln County Zoning Ordinance, in Screening and Landscaping, to state: When a nonresidential use, in the Residential Commercial Recreational (R-CR) District, abuts a lot with a residential use in a R-CR District or another Residential (R) District, screening in the form of a Grade C screen on the lot with a nonresidential use shall be provided on said lot. In lieu of a Grade C screen, an opaque wall or fence or a berm shall be provided on said lot. The equivalent of a Grade C screen is indicated on Figure 8-3. And amend Section</li></ul>

10.5.3-H, in the Residential Commercial Recreational (R-CR), to state: Screening – Screening shall be provided in accordance with Section 8-2 of this Ordinance.

- Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant, Request to rezone 14.686 acres from Residential Rural (R-R) to Neighborhood Business (B-N) in order to accommodate a retail business. The property is located at the Intersection of Highway 10 and Willis Road in Vale, NC.

6. 6:15 PM Partnership for Children – Kevin Starr
7. 6:25 PM Water Plant Solids Facility Bid Award – Jack Chandler
8. 6:35 PM Sludge Facility Resolution
9. 6:45 PM Timken Resolution
10. 6:55 PM Discussion of Pete Acker's Visit – Commissioner John Gamble
11. 7:05 PM Other Business
12. 7:20 PM Recommendations from the Planning Board – March 6, 2000
  - Conditional Use Permit No. 164 – SBA Towers, applicant.
  - Conditional Use Permit No. 166 – Crystal Hope, applicant.
  - Conditional Use Permit No. 167 – Patti Mendiola, applicant.
  - Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc.
  - Zoning Text Amendment No. 327
  - Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant.
13. 7:50 PM Bonds for Sailview

Adjourn

**Approval of Minutes:** Chairman Hallman presented the minutes of February 21, 2000 meeting for approval.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to approve the minutes of the February 21, 2000 meeting.

**Consent Agenda:**

Budget Adjustment No. 44 for Social Services for increasing expenditure and revenue line items for additional allocation of funds for Crisis Intervention Program (no county funds involved).

**UPON MOTION** by Commissioner Gamble, the Board voted unanimously to approve Budget Adjustment No. 44.

**Appointment to the Planning Board – Commissioner Beth Saine:**

Commissioner Saine stated that there has been a vacancy on the Planning Board for the Lincolnton Township for quite some time. She presented the name of Robert E. Sigmon to fill this vacancy.

Commissioner Saine stated that Dean Lutz needs to be reappointed to the Planning Board.

Commissioner Saine also presented the names of C. Dean Lutz and Ginger V. Lutz to serve on the Nursing and Adult Care Home Advisory Committee.

**UPON MOTION** by Commissioner Waters, the Board voted unanimously to approve the appointments of Robert E. Sigmon to the Planning Board, c. Dean Lutz and Ginger V. Lutz to the Nursing and Adult Care Home Advisory Committee, and the reappointment of Dean Lutz to the Planning Board.

Chairman Hallman stated that he polled the Commissioners about serving on the Social Services Board. He stated that since no interest was shown, he sat in on the Social Services meeting last week. He stated that he has since read some of the General Statutes, and would feel more comfortable if one of the Commissioners appoint him, rather than him appointing himself. Chairman Hallman stated that the appointment would have to be remade, which will be effective July 1.

**A MOTION** by Commissioner Saine to appoint Chairman Hallman to serve on the Social Services Board.

Chairman Hallman stated that he will refrain from voting on this matter.

**VOTE:** 4 – 0    **AYES:** Saine, Brotherton, Gamble, Waters  
**ABSTAINING:** Hallman

Clerk Amy S. Long administered the Oath of Office to Robert E. Sigmon, the newly appointed Planning Board member.

**New Business: Advertised Public Hearings:** Chairman Hallman announced that this was the date, Monday, March 6, 2000 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on February 25 and March 3, 2000.

#### NOTICE OF PUBLIC HEARING

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing at 5:30 P.M. on Monday, March 6, 2000 (note time change) to consider the following zoning related matters:

CUP #166 – Crystal Hope, applicant: A request for a Conditional Use Permit in order to accommodate a single wide mobile home on property owned by Lovenia Finger. The property is zoned Residential Suburban (R-S) and is located at 571 Car Farm Road in Lincolnton, NC.

CUP #167 – Patti Mendiola, applicant: A request for a Conditional Use Permit in order to accommodate a single wide mobile home in a Residential Suburban (R-S) Zoning District with a Designated Highway Overlay (D-H) that is located on Highway 27 in Vale, NC.

CUP #168 – The Intelligent Pet Shop, Inc, applicant.: A request for a Conditional Use Permit in order to accommodate an animal kennel on property owned by Triangle Crossroads, LLC. The property is zoned General Business (B-G) with a Designated Highway Overlay (D-H) and is located at 112 Highway 16 South in Denver, NC.

ZTA #327: Amend Section 8.2.1-E to the Lincoln County Zoning Ordinance.

ZMA #328 – Gerald Leonhardt, applicant: A request to rezone 14.686 acres from Residential Rural (R-R) to Neighborhood Business (B-N) in order to accommodate a retail business. The property is located at the intersection of Highway 10 and Willis Road in Vale, NC.

**Conditional Use Permit No. 164 – SBA Towers, Inc., applicant:** Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 164 – SBA Towers, Inc., applicant.

The applicant is requesting a Conditional Use Permit for property owned by Thomas and Thedosia Moore located at 3510 Ironton Place in Iron Station, NC. The applicant is making this request in order to accommodate a telecommunication/transmission tower in excess of sixty (60) feet in height. The property is located in the Transitional Residential (R-T) zoning district.

**Conditional Use Permit No. 166 – Crystal Hope, applicant:** Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit 166 – Crystal Hope, applicant.

The applicant is requesting a Conditional Use Permit for property owned by Louvenia Finger located at 571 Car Farm Road in Lincolnton, NC. The applicant is making this request in order to accommodate a singlewide mobile home. The property is located in the Residential Suburban (R-S) zoning district.

This parcel is 3.024 acres and is located in the Lincolnton Township. The property is joined on all sides by parcels that are also zoned R-S. The Lincoln County Land Development Plan calls for higher density residential usage in this area. Singlewide mobile homes require the issuance of a Conditional Use Permit in the R-S district.

Chairman Hallman opened the Public Hearing for Conditional Use Permit No. 166 – Crystal Hope, applicant.

Barbara Craig stated that she is the mother of Crystal Hope. She stated that Ms. Hope is in the hospital, and couldn't be here. She stated that they are asking permission for a single wide, but it would be over 250 feet off the main highway. She stated that no one would even know it was back there, unless they drove down the driveway. Ms. Craig stated that the neighbors do not mind the single wide. She stated that this is the only way they can get a home. Ms. Craig stated that Ms. Hope will be in service to her grandmother.

Being no additional speakers, Chairman Hallman declared the public hearing for Conditional Use Permit 166 – Crystal Hope, applicant, closed.

**Conditional Use Permit No. 167 – Patti Mendiola, applicant:** Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 167 – Patti Mendiola, applicant.

The applicant is requesting a Conditional Use Permit for property located at Lot #27 of the Vernon Boyles Subdivision in Vale, NC. The applicant is making this request in order to accommodate a singlewide mobile home. The property is located in the Residential Suburban (R-S) zoning district.

This parcel is 4.89 acres and is located in the North Brook Township. The property is joined on the east, west, and north by parcels that are also zoned R-S and to the south by R-SF zoned parcels. The Lincoln County Land Development Plan calls for higher density residential usage in this area. Singlewide mobile homes require the issuance of a Conditional Use Permit in the R-S district.

Commissioner Waters asked if there is an existing home on the property.

Lee Lawson stated that there is an existing house on the property. He stated that he has advised the applicant that they either need to subdivide or remove the house, prior to getting the mobile home permit.

Chairman Hallman opened the Public Hearing for Conditional Use Permit No. 176 – Patti Mendiola, applicant.

Patti Mendiola, applicant, stated that the old structure there is a three bedroom old house, with no power or water. She stated that they are planning on tearing it down, but they are not planning on tearing it down until they get the mobile home there.

Being no additional speakers, Chairman Hallman declared the public hearing for Conditional Use Permit No. 167 – Patti Mendiola, applicant, closed.

**Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant:** Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant.

The applicant is requesting a Conditional Use Permit for property owned by Triangle Crossroads, LLC., located at 112 Highway 16 South in Denver, NC. The applicant is making this request in order to accommodate a pet retail store. The property is located in the General Business (B-G) zoning district.

This parcel is 5.29 acres and is located in the Catawba Springs Township. The property is joined on all sides by properties that are also zoned General Business (B-G). The Lincoln County Land Development Plan calls for higher density development in this area. An animal kennel requires the issuance of a Conditional Use Permit in the B-G zoning district.

Mr. Lawson stated that the applicant needs the Conditional Use Permit so he can sell over six animals in the pet store.

Chairman Hallman opened the Public Hearing for Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant.

Shawn Earnest stated that all animals will be kept inside, and they are not going to be kenneling anybody's animals. He stated that they will carry kittens, puppies, birds, etc.

Being no additional speakers, Chairman Hallman declared the Public Hearing for Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant, closed.

**Zoning Text Amendment No. 327:** Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Text Amendment No. 327.

Amend Section 8.2.1-E to the Lincoln County Zoning Ordinance, in Screening and Landscaping, to state: When a nonresidential use, in the Residential Commercial

Recreational (R-CR) District, abuts a lot with a residential use in a R-CR District or another Residential (R) District, screening in the form of a Grade C screen on the lot with a nonresidential use shall be provided on said lot. In lieu of a Grade C screen, an opaque wall or fence or a berm shall be provided on said lot. The equivalent of a Grade C screen is indicated on Figure 8-3. And amend Section 10.5.3-H, in the Residential Commercial Recreational (R-CR), to state: Screening – screening shall be provided in accordance with Section 8-2 of this Ordinance.

This is a staff recommendation.

Chairman Hallman opened the Public Hearing for Zoning Text Amendment No. 327.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing for Zoning Text Amendment No. 327 closed.

**Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant:** Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant.

The applicant is requesting to rezone 14.686 acres from Residential Rural (R-R) to Neighborhood Business (B-N). The applicant wishes to rezone in order to accommodate a retail usage as permitted in the B-N district.

The parcel is located at the intersection of Highway 10 and Willis Road in the North Brook Township. The property is joined on all sides by parcels that are also zoned R-R. The Lincoln County Land Development Plan calls for lower residential density development in this area.

Commissioner Brotherton asked if there are definitions for high density, medium density, and low density.

Lee Lawson stated that this is defined in the Zoning Ordinance.

Gary Garlow stated that each zone specifies a density that is allowed.

Chairman Hallman opened the Public Hearing for Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing for Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant, closed.

Commissioner Waters asked who owns the house in the middle of this parcel.

Mr. Lawson stated that the applicant, Gerald Leonhardt, owns this parcel also.

Commissioner Gamble asked about the variations of the Planning Board's authority.

Jeff Taylor stated that the Planning Board's primary jurisdiction is to make recommendations to the Board of Commissioners on zoning matters. He stated that the General Statutes require the Board of Commissioners to have a Public Hearing on a rezoning request, and also requires a recommendation from the Planning Board on the rezoning request. He stated that this a joint meeting of the two boards, so everybody hears the same information.

Commissioner Gamble asked if the Board wanted a Planning Board that didn't involve the County Commissioners, how would they accomplish this.

Jeff Taylor stated that rezoning requests would still have to be addressed by the Board of Commissioners, because those are legislative decisions, and the Board does not have authority to delegate legislative matters to another body. Quasi-judicial matters, such as Conditional Use Permits, could be delegated to another board, such as the Planning Board. The Board could also assign the authority to do what the Board of the Variances and Appeals does. He stated that the City of Lincolnton has 5 individuals who serve as the Board of Adjustment, and the same 5 individuals, plus 4 more serve as their Planning Board.

Commissioner Gamble stated that he would like the Board to have a separate Planning Board that does not involve the County Commissioners.

The Planning Board reconvened to the second floor balcony.

**Partnership for Children – Kevin Starr:**

Kevin Starr stated that he would like to brief the Commissioners on a project that the Extension Service in Lincoln County, in conjunction with the Extension Service in Gaston County, is getting ready to pursue. He stated that this is a parenting education project sponsored by Smart Start. Three parent educators would be hired through this program, and one of the three will be in Lincoln County. Parenting education has been identified as a very large need for parents of children 0 through 5.

Mr. Starr stated that they are proposing that the funding be handled through Lincoln County. He stated that the positions will be dependent upon Smart Start funding, the county will not be making a commitment to fund this position. He stated that he is not aware of any action to be taken by the Board, he is presenting this for information only.

**Water Plant Solids Facility Bid Award:**

Jack Chandler, Director of Public Service, stated that at the last meeting he brought a letter before the Board a letter from the consulting engineers that gave their recommendation on the award of bids for the solids handling facility at the water treatment plant. He stated that at that time, the Board's wishes were to postpone the actual awarding of the bids to tonight to give staff time to get funding in place and to see

if any information was given out about the grants. He stated that they do not expect to get any grant money for this project. Mr. Chandler stated that tomorrow is the deadline for awarding these bids based on the ninety-day limitation in the bid documentation. He stated that they have received some good news from the Local Government Commission, in that they have sent us an application to apply to them for permission to borrow the money to do this project. Mr. Chandler stated that it is his understanding that if the Local Government Commission sends you an application, then they are in agreement with the project. He stated that the award would still be contingent upon getting funding secured.

Mr. Chandler presented the following letter from WK Dickson.

January 10, 2000

Mr. Jack I. Chandler  
Director of Public Services  
Lincoln County  
115 West Main Street  
Lincolnton, NC 28092

Re: Recommendation of Award for Bids Received  
Water Treatment Plant – Solids Handling Facilities  
WKD # 98486.10 A

Dear Mr. Chandler:

We have completed a canvas of bids received on December 9, 1999 for the referenced project. Ray Smith Construction Co., Inc. of Newland, North Carolina was the low bidder of the eight bids received.

Bidder	Bid Submitted
Ray Smith Construction Co., Inc. Rutherfordton, NC	\$ 1,088,850
Turner Murphy Co., Inc. Rock Hill, SC	\$ 1,179,621
Hall Contracting Charlotte, NC	\$ 1,180,725
James E. Harris Construction Co. Huntersville, NC	\$ 1,214,000
Hickory Construction Hickory, NC	\$ 1,215,232

Building Crafts, Inc. Blountville, TN	\$ 1,282,457
Good Water, Inc. Greenville, SC	\$ 1,291,500
Concord Builders, Inc. Concord, NC	\$ 1,323,000

We found two bidding irregularities in the canvas of Ray Smith Construction's bid. The low bidder did not acknowledge receipt of Addendum #1 as required by the bid and they did not include the contingency allowance in their total bid price as required by Addendum #1. These irregularities do not change the order of the low bidder and the County, according to the Contract provisions, can opt to waive the irregularities and award the Contract to the low bidder, Ray Smith Construction.

Based on our review of the bids and the references provided by the low bidder, we recommend the County award the Contract to Ray Smith Construction. The total bid price, including the contingency allowance is \$1,088,850. A detailed bid tabulation of all bids received is enclosed. We can prepare Contract Documents to send Ray Smith Construction for their execution upon your authorization to award the Contract.

A separate issue the County will need to address at a later time involves Ray Smith's strategy to subcontract a majority of the work. The Contract does not allow more than 50% of the work to be subcontracted without the written approval of the County. The Contractor will be required to submit a list of subcontractors for approval before work begins. The County will have the option to approve the subcontractor(s) at that time. Please advise if there are any questions.

Sincerely,

W. K. DICKSON & CO., INC.

M. L. Wolfe

Commissioner Waters stated that he has never seen a way out of doing this project.

**UPON MOTION** by Commissioner Waters, the Board voted unanimously to award the bid to Ray Smith Construction Co., Inc., in the amount of \$1,088,850, as recommended by the Consulting Engineers.

**Contract for Professional Engineering Services:**

**UPON MOTION** by Commissioner Waters, the Board voted unanimously to approve the Contract for Professional Engineering Services and authorize the Chairman to sign the Contract.

**Sludge Facility Resolution:** **UPON MOTION** by Commissioner Waters, the Board voted unanimously to pass the following Sludge Facility Resolution.

## **REIMBURSEMENT RESOLUTION**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE  
COUNTY OF LINCOLN, NORTH CAROLINA, (THE "ISSUER")  
DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE  
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR  
CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN  
CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND  
EQUIPPING OF CERTAIN CAPITAL  
IMPROVEMENTS**

WHEREAS, Lincoln County the (the "Issuer") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer [has paid, beginning no earlier than January 6, 2000 and ] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the construction, extension and/or equipping of the water system of the Issuer (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina, (the "Board") has determined that those moneys [previously advanced no more than 60 days prior to the date hereof and] to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds");

### **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:**

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the loan proceeds Expenditures with respect to the Project made on and after [January 6, 2000, which date is no more than 60 days prior to] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the loans.

Section 2. Each Expenditure [was and] will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer as long as such grant does

not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is \$1,400.00.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

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

PASSED AND ADOPTED this 6<sup>th</sup> day of March, 2000.

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James A. Hallman, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Long  
Clerk to the Board

**Timken Resolution: UPON MOTION** by Commissioner Waters, the Board voted unanimously to pass the following Timken Resolution.

### **REIMBURSEMENT RESOLUTION**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE  
COUNTY OF LINCOLN, NORTH CAROLINA, (THE "ISSUER")  
DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE  
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR  
CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN  
CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND  
EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS**

WHEREAS, Lincoln County (the "Issuer") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer [has paid, beginning no earlier than January 6, 2000 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction, extension and/or equipping of the sewer system of the Issuer (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina, (the "Board") has determined that those moneys [previously advanced no more than 60 days prior to the date hereof and] to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds");

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:**

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the loan proceeds for the Expenditures with respect to the Project made on and after [January 6, 2000, which date is no more than 60 days prior to ] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Loans.

Section 2. Each Expenditure [was and] will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer as long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is \$800,00.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

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

PASSED AND ADOPTED this 6<sup>th</sup> day of March, 2000.

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James A. Hallman, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Long  
Clerk to the Board

**Recess:** Chairman Hallman declared a five-minute recess.  
Chairman Hallman called the meeting back to order.

**Discussion of Pete Acker's Visit:** Commissioner Gamble presented the following information concerning Pete Acker's visit on March 20, 2000.

- Commissioner Gamble demanded and requested the current Articles of Incorporation of LHS and their current bylaws, officers of the corporation, the Chief of Staff, and the bylaws of the subsidiary corporations, to be presented before Mr. Acker's appearance on March 20, 2000.
- Commissioner Gamble demanded and requested the audits of the past five years.
- Commissioner Gamble demanded and requested a copy of the official approved minutes of each corporate entity for the past fiscal year.
- Commissioner Gamble raised the point of confidentiality agreements being binding on elected officials.
- Commissioner Gamble asked if there is a "golden parachute" for transfer of power of corporations?
- Commissioner Gamble asked how the Board of Trustees of the Lincoln Health Systems resolve to handle this six million dollar debt.
- Commissioner Gamble stated that all of these demands and requests are in accordance with Statutory Authority invested in the Board of County Commissioners by General Statute Chapters 143, 153A, and 160A.

**Recommendations of the Planning Board – March 6, 2000:**

**Conditional Use Permit No. 164 – SBA Towers, Inc., applicant:** Jeff Taylor, County Attorney, stated that he would like the opportunity to review this until the next meeting. He stated that this is a subject to a lot of litigation across the state. He stated that he learned this afternoon of a case that has come down in Greensboro, which he has not seen yet.

Mr. Jonathan Yates, with SBA Towers, stated that there was an almost identical case in Davie County, where their Board turned down an almost identical situation, and it was overturned by the Honorable Preston Cornelius, and ordered that a permit be issued immediately. He stated that there was also a recent decision issued by the North Carolina Court of Appeals, regarding this type of zoning decision, that if published criteria is met, the permit should be issued.

Jeff Taylor, County Attorney, stated that he would like the opportunity to review this information, and report back to the Board at the next meeting.

Jonathan Yates stated that he would like two objections on the record. He stated that number one, they would object to any recommendation made by this Planning Commission, because in their review, they did not review the evidence at hand. A motion was made that was pre-typed prior to the meeting. He stated that evidence by opponents to this application was given to Board members outside the meeting and outside the public hearing. He stated that they feel that this compromises the entire integrity of the system, and the public hearing. He stated that it is his hope that once the Corporate Council reviews the 2 cases, that a lot of this will be taken care of quickly.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to defer Conditional Use Permit No. 164 – SBA Towers, Inc., applicant, to March 20, 2000.

**Conditional Use Permit No. 166 – Crystal Hope, applicant:** Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval.

Chairman Hallman presented the Findings of Fact.

## RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

## LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP # 166 Date: March 6, 2000

Applicant's Name: Crystal S. Hope  
Address: 15B Woodmont  
Lincolnton, NC 28092

Property Owner's Name: Louvenia Finger  
Address: 571 Car Farm Road

Lincolnton, NC 28092

Property Location: 571 Car Farm Road

Existing Zoning: R-S

Proposed Conditional Use: placement of a singlewide mobile home

#### FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. Yes X No \_\_\_\_  
Motioned by Commissioner Waters. Vote: Unanimous approval.
2. The use meets all required conditions and specifications. Yes X No \_\_\_\_  
Motioned by Commissioner Waters. Vote: Unanimous approval.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No \_\_\_\_  
Motioned by Commissioner Waters. Vote: Unanimous approval.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.  
Yes X No \_\_\_\_  
Motioned by Commissioner Waters.  
Vote: Unanimous approval.

After having held a public hearing on March 6, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

**UPON MOTION** by Commissioner Waters, the Board voted unanimously to approve Conditional Use Permit No. 166 – Crystal Hope, applicant, with no conditions.

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Chairman  
Lincoln County Board of Commissioners

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Date

**Conditional Use Permit No. 167 – Patti Mendiola, applicant:** Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval with the condition that the home on the lot be removed before issuing a mobile home permit.

Chairman Hallman presented the Findings of Fact.

# RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

## LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP # 167 Date: March 6, 2000

Applicant's Name: Patti H. Mendiola  
Address: 6099 Hwy 27 West  
Vale, NC 28168

Property Owner's Name: Same  
Address:

Property Location: #27 Vernon Boyles on Hwy. 27

### Existing Zoning: R-S

## Proposed Conditional Use: placement of a singlewide mobile home

## FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.  
-- Vote: Unanimous approval.
2. The use meets all required conditions and specifications. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use meets all required conditions and specifications.  
-- Vote: Unanimous approval.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.  
-- Vote: Unanimous approval.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.  
Yes X No \_\_\_\_

Motioned by Commissioner Brotherton. Factual Reasons Cited: The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

-- Vote: Unanimous approval.

After having held a public hearing on March 6, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to approve Conditional Use Permit No. 167 – Patti Mendiola, applicant, subject to the Planning Board’s recommendation, with the following condition: the structure on the lot will be removed before the applicant receives a mobile home permit.

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**Chairman**  
**Lincoln County Board of Commissioners**

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Date:

**Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant:**

Chairman Hallman presented the Findings of Fact.

## RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

## LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP # 168 Date: March 6, 2000

Applicant's Name: The Intelligent Pet Shop, Inc.  
Address: 8072 Fairfield Forest Rd.  
Denver, NC 28037

Property Owner's Name: Triangle Crossroads LLC  
Address: 732 Third Street  
New Martinsville, WV 26155

Property Location: 112 South Hwy 17, Denver

Existing Zoning: B-G, D-H

Proposed Conditional Use: Pet shop with grooming, selling 6 or more pets on location

## FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.  
-- Vote: Unanimous approval.
2. The use meets all required conditions and specifications. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use meets all required conditions and specifications.  
-- Vote: Unanimous approval.
4. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.  
-- Vote: Unanimous approval.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.  
Yes X No \_\_\_\_  
Motioned by Commissioner Brotherton. Factual Reasons Cited: The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.  
-- Vote: Unanimous approval.

After having held a public hearing on March 6, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to approve Conditional Use Permit No. 168 – The Intelligent Pet Shop, Inc., applicant, subject to the Planning Board's recommendation, with the following condition: there will be no outside kennels located on the premises.

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Chairman  
Lincoln County Board of Commissioners

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Date

**Zoning Text Amendment No. 327:** Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to approve Zoning Text Amendment No. 327, as recommended by the Planning Board.

**Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant:** Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval, stating that they did not think this was an appropriate position for a business, but there was no opposition.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to approve Zoning Map Amendment No. 328 – Gerald Leonhardt, applicant, as recommended by the Planning Board.

**Other Business:** Jeff Taylor, County Attorney, presented the following Resolution for the Board's approval.

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR  
APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH  
CAROLINA GENERAL STATUTE 160-20**

**WHEREAS**, the County of Lincoln, North Carolina desires to construct a sludge handling facility and make other improvements at the Lincoln County Water Treatment Plant (the "Project") to better serve the citizens of Lincoln County; and

**WHEREAS**, The County of Lincoln desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

**WHEREAS**, findings of fact by this governing body must be presented to enable the North Carolina Local Government commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Lincoln County, North Carolina, meeting in regular session on the 6th day of March, 2000, make the following findings of fact:

1. The proposed contract for 1.329 million dollars is necessary and expedient because requirement of North Carolina Department of Environment and Natural Resources that a sludge handling facility be constructed at the Lincoln County Water Plant.

2. The proposed contract is preferable to a bond issue for the same purpose because there are not adequate funds in the current budget to finance the total cost of this project. Lincoln County has endeavored to improve its fund balance to an amount acceptable to the NCLGC and consistent with sound financial management. Although the current fund balance is adequate, there are not adequate funds available to pay for this project without spreading the payments over several years. This financing is preferred over general obligation bonds because of the comparable interest rate and lower issuance cost associated with private placement. This is also preferable to two-thirds debt issuance because currently there is no two-thirds debt authorization

available. Furthermore, this form of financing is faster than general obligation bonds and needs to be completed within the next few months in order to allow Lincoln County to meet the requirements of the North Carolina Department of Environmental and Natural Resources.

3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because they are reasonable for the proposed project.

4. The County of Lincoln's debt management procedures and policies are good because such practices have been carried out in strict compliance with the law as evidenced by the additional general obligation debt that has been issued over the past several years for school projects.

5. The County of Lincoln has identified sufficient new revenues from growth to meet the sums to fall due under the proposed contract, and therefore no increase in property taxes will be necessary for that purpose.

6. The County of Lincoln is not in default in any of its debt service obligations.

7. The attorney for the County of Lincoln has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Chairman of the Board of Commissioners and/or the County Manager is hereby authorized to act on behalf of the County of Lincoln in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

The motion to adopt this resolution was made by Commissioner \_\_\_\_\_, seconded by Commissioners \_\_\_\_\_, and passed by a vote of \_\_\_\_\_ to \_\_\_\_\_.

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James A. Hallman, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Long, Clerk to the  
Board of Commissioners

This is to certify that this is a true and accurate copy of Resolution No. \_\_\_\_\_ Adopted by the Lincoln County Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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Amy S. Long, Clerk to the  
Board of Commissioners

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Date

**UPON MOTION** by Commissioner Waters, the Board voted unanimously to approve the Resolution.

Commissioner Brotherton stated that the East Lincoln Site Selection Committee has had two meetings and need some clarification as to what the actual responsibilities of the Committee should be. He stated that he would like the Committee in the East to be able to bring a proposal back to the Board of Commissioners, for the employment of an architect, as well as endorsement of a particular plan.

Commissioner Waters asked if Mary Reaber could be added to the Planning Committee.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to proceed as Commissioner Brotherton outlined and add Mary Reaber to the Planning Committee.

Commissioner Brotherton stated that at the last meeting, questions about the finances of Lincoln County arose. He stated that he would like to have a County Finance Director's Report at each regular monthly meeting.

Commissioner Gamble stated that he thought every other month would be fine.

**UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to have a Finance Director's Report every other month at the regular monthly meeting.

Commissioner Brotherton stated that he has had several phone calls from citizens concerning reevaluation, mostly senior citizens. He stated that they seem to understand that their property has increased in value, but they live on a fixed income. He stated that they are very concerned about what their tax bill will be. Commissioner Brotherton stated that he would like to see some relief for senior citizens of Lincoln County. He stated that this is not possible based on State Statutes. Commissioner Brotherton made a proposal that the Board seek for a Resolution to be presented to the delegation to Raleigh, asking them to support Lincoln County on special legislation.

Commissioner Gamble stated that you cannot do that.

Jeff Taylor stated that this is unconstitutional, and would take a Constitutional Amendment first.

Commissioner Brotherton stated that he would like to see the delegation to Raleigh seek a Constitutional Amendment to better serve our senior citizens. He stated that for residents with up to 2 acres, at 62 years of age the tax would be 60%, at 70 the tax would be 50%, at 75 the tax rate would be 35%, and from 80 on would be 25%.

Commissioner Waters stated that he is a senior citizen according to the outline.

Chairman Hallman instructed Commissioner Brotherton to get with Jeff Taylor concerning this.

Commissioner Saine stated that in all due respect to Mr. Yates and his statement here, why does he keep talking about other counties. She asked if the Board could not make their own decisions.

Jeff Taylor, County Attorney, stated that they Board can, and in fact must, make a decision here based on local circumstances. He stated that there have been a lot of cases coming down, and this company has filed several of them.

Commissioner Waters stated that he does not appreciate feeling like a gun is being held to his head when he is making a decision.

**Adjournment:** UPON MOTION by Commissioner Gamble, the Board voted unanimously to adjourn.

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Amy S. Long, Clerk  
Board of Commissioners

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James A. Hallman, Chairman  
Board of Commissioners