

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 11, 2000

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on September 11, 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
John R. Gamble, Jr.
W. J. Waters, Jr.
Beth H. Saine

Planning Board Members Present:

Gary Garlow, Chairman
Ron Smith
James "Buddy" Funderburk
Dean Lutz
Stanley Roseboro
Phil Hunt
Jerry Geymont

Others Present:

Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Lee Lawson, Land Use Coordinator
Sherry Seagle, Administrative Secretary
Barbara Carpenter, Code Enforcement Officer
Leon Harmon, Finance Director

Call to Order: Chairman Hallman called the September 11, 2000 meeting to order.

Adoption of Agenda: **UPON MOTION** by Commissioner Waters, the Board voted unanimously to adopt the agenda as presented with the following changes: On PCUR #69 the Public Hearing has already been held, so that will need to be removed, Add 14a – Closed Session for Contractual and Personnel, Move Item 10 to after 14a, and add Item 13a – Comments on Marine Commission's Schooling for Boat Operators.

Chairman Hallman stated that he gave everyone a letter from Catawba County relative to the Lake Norman Marine Commission's Proposal.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARINGS
SEPTEMBER 11, 2000

	5:30 PM	Call to Order
1.	5:30 PM	Adoption of Agenda
2.	5:30 PM	Approval of Minutes - August 21, 2000
3.	5:35 PM	New Business / Advertised Public Hearing <ul style="list-style-type: none">- Parallel Conditional Use Rezoning No. 69 – Waterside Crossing, LLC., applicant. Request for a Parallel Conditional Use Rezoning (PCUR) to rezone 122.16 acres from Residential Transitional (R-T) to Conditional Use Planned Mixed Use (CU P-MU). The applicant wishes to rezone the properties to accommodate a major subdivision of 240 single family dwelling units. The parcels are located off of Sifford Road in the Catawba Springs Township.- Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant. Request for a Parallel Conditional Use Rezoning to rezone a 3.83 portion of a 11.97 acre parcel from General Industrial (I-G) to Conditional Use Neighborhood Business (CU B-N) in order to accommodate a retail structure. The 11.97 acres parcel is located on N.C. Highway 16 North in the Catawba Springs Township.- Conditional Use Permit No. 173 – Michelle Ledbetter, applicant. Request for a Conditional Use Permit in order to accommodate a single wide mobile home in a Residential Suburban (R-S) zoning district. The 1.07 acres parcel is located off of Heartland Trail in the Lincolnton Township.- Zoning Map Amendment No. 345 – Harold Howard, applicant. Request to rezone a parcel from Multiple Zoning (M-Z) to General Business (B-G) to accommodate mini storage warehouses. The 19.61 acres parcel is located on N.C. Highway 16 in the Catawba Springs Township.

- Zoning Map Amendment No. 346 – Harold Howard, applicant. Request to rezone a parcel from Residential Single Family (R-SF) to General Business (B-G) to accommodate an automobile sales lot. The .726 acre parcel is located on N.C. Highway 16 in the Catawba Springs Township.
- Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill, applicants. Request to rezone two parcels from Residential Single Family (R-SF) to General Business (B-G) with a designated Highway Overlay (D-H) district. Both parcels are located on N.C. Highway 16 in the Catawba Springs Township.
- Zoning Text Amendment No. 348: Amend Section 6.6 to the Lincoln County Zoning Ordinance, in Conditional Uses, to state:

Certificate of Occupancy and Approval for Power Connection

No Certificate of Occupancy or label that indicates Approval for Power Connection for a use listed as a Conditional Use shall be issued for any building or land use on a piece of property which has received a Conditional Use Permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the Conditional Use Permit approved by the Board of Commissioners. In the event that only a segment of a proposed development has been approved, the certificate of occupancy and label that indicates Approval for Power Connection shall be issued only for that portion of the development constructed or used as approved.

Amend Section 2.4, Definitions, to state:

Approval for Power Connection

Orange label placed on a meter box which notifies the local provider of electricity that a structure has been issued a building permit and a zoning permit, by Lincoln County, and is permitted to be connected to power.

4. 6:15 PM Resolution to Approve Purchase of Roll Off Truck
5. 6:25 PM East Lincoln Library Funding
6. 6:35 PM Addressing Ordinance Public Hearing
7. 6:40 PM Improvements at Law Enforcement Center and Animal Shelter

8. 6:50 PM Positron Intelligent Workstations

9. 7:00 PM Public Hearing for Leash Law for Nixon's Lakeview Lots

10. 7:10 PM Hospital Business – Commissioner John Gamble

- Motion that the State Auditor do an audit of the hospital operations for the last five (5) years

11. 7:25 PM Proclamation Declaring September 25 – 29, 2000 as Employ the Older Worker Week in Lincoln County

12. 7:30 PM Public Hearing on Expenses on Infrastructure for Industrial Park

13. 7:40 PM Resolution in Support of Community College Bond Issue

14. 7:45 PM Recommendations from the Planning Board – September 11, 2000

- Parallel Conditional Use Rezoning No. 69 – Waterside Crossing, LLC., applicant.
- Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant.
- Conditional Use Permit No. 173 – Michelle Ledbetter, applicant.
- Zoning Map Amendment No. 345 – Harold Howard, applicant.
- Zoning Map Amendment No. 346 – Harold Howard, applicant.
- Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill, applicant.
- Zoning Text Amendment No. 348

15. 8:15 PM Other Business

Adjourn

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

Chairman Hallman stated that he would like to request one correction. He stated that on the Commissioner's State Convention, he would like the record to reflect that he did attend in 1997 and Stan Kiser attended in 1998. He stated that he thinks someone gave Mr. Waters some erroneous information. Chairman Hallman stated that they went back in the minutes and looked where Stan was authorized as the Voting Delegate in 1998. He

stated that as a matter of fact, he does not know how Mr. French would have known that no one had been in 1979, since he was not even the County Manager until 1993.

Commissioner Gamble asked the Chairman what he had done with these changes.

Chairman Hallman stated that he wants the record to show that the 1979 date that was given to Mr. Waters was not correct.

Commissioner Gamble asked what this reflects, what the Chairman is telling him.

Chairman Hallman stated that he attended the meeting in 1997 and Stan was the authorized Voting Delegate in 1998. He stated that there was no one there in 1999.

Commissioner Gamble asked if this was a matter of information for the minutes, the audience, or the paper.

Chairman Hallman stated that it is just public record that there has not been anybody from this County at a meeting since 1979, and this is not correct.

Commissioner Gamble stated that this is just a matter of information, as a fact, that has never been acknowledged before.

Chairman Hallman stated that it is just the fact that Commissioner Waters was given some incorrect information at the state meeting.

Commissioner Waters stated that he was told when he checked in for his credentials that he was the first person there since 1979 from Lincoln County, and he just reported that when he came back.

Commissioner Gamble asked if it is because of Ms. Amy that this is in the minutes.

Commissioner Waters stated that it is in the minutes because he said it, and it belongs in the minutes if he said it.

Commissioner Gamble stated that she has some leeway, she doesn't put everything that is said in there.

Chairman Hallman stated that he thought the Board wanted good minutes.

Commissioner Gamble stated that the Chairman is right and he is glad he is coming forward.

Chairman Hallman stated that the Clerk put what was said, but he would like the minutes to reflect that he was there in 1997 and Stan was there in 1998.

Commissioner Gamble asked if we are getting ready to elect a new member to that meeting.

Chairman Hallman stated that every Commissioner and County Manager can go to the State Convention. He stated that the meeting was in August and Commissioner Waters represented this Board at that meeting.

Commissioner Waters stated that some counties had all their Commissioners, County Manager, and Clerk there. He stated that there were some events where all of those people were at the meetings.

Commissioner Gamble asked if Commissioner Waters is now the permanent for this remaining year.

Chairman Hallman stated that any or all Commissioners can go.

Commissioner Waters stated that next summer the Commissioners can decide who will go.

UPON MOTION by Commissioner Waters, the Board approved the minutes of the August 21, 2000 meeting with the one stated change.

New Business: Advertised Public Hearings: Chairman Hallman announced that this was the date, Monday, September 11, 2000 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on September 1 and 8, 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, September 18, 2000 to consider the following zoning related matters:

Parallel Conditional Use Rezoning No. 69 – Waterside Crossing, LLC, applicant: Request for a Parallel Conditional Use Rezoning (PCUR) to rezone 122.16 acres from Residential Transitional (R-T) to Conditional Use Planed Mixed Use (CU P-MU). The applicant wishes to rezone the properties to accommodate a major subdivision of 240 single family dwelling units. The parcels are located off of Sifford Road in the Catawba Springs Township.

Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant: Request for a Parallel Conditional Use Rezoning to rezone a 3.83 portion of a 11.97 acre parcel from General Industrial (I-G) to Conditional Use Neighborhood Business (CU B-N) in order to accommodate a retail structure. The 11.97 acres parcel is located on N.C. Highway 16 North in the Catawba Springs Township.

Conditional Use Permit No. 173 – Michelle Ledbetter, applicant: Request for a Conditional Use Permit in order to accommodate a single wide mobile home in a Residential Suburban (R-S) zoning district. The 1.07 acres parcel is located off of Heartland Trail in the Lincolnton Township.

Zoning Map Amendment No. 345 – Harold Howard, applicant: Request to rezone a parcel from Multiple Zoning (M-Z) to General Business (B-G) to accommodate mini storage warehouses. The 19.61 acres parcel is located on N.C. Highway 16 in the Catawba Springs Township.

Zoning Map Amendment No. 346 – Harold Howard, applicant: The applicant is requesting to rezone a parcel from Residential Single Family (R-SF) to General Business (B-G) to accommodate an automobile sales lot. The .726 acre parcel is located on N.C. Highway 16 in the Catawba Springs Township.

Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill: The applicants are requesting to rezone two parcels from Residential Single Family (R-SF) to General Business (B-G) with a designated Highway Overlay (D-H) district. Both parcels are located on N.C. Highway 16 in Catawba Springs Township.

ZTA #348: Amend Section 6.6 to the Lincoln County Zoning Ordinance, in Conditional Uses, to state:

Certificate of Occupancy and Approval for Power Connection

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Amend Section 2.4, Definitions, to state:

Approval for Power Connection

Orange label placed on a meter box which notifies the local provider of electricity that a structure has been issued a building permit and a zoning permit, by Lincoln County, and is permitted to be connected to power.

Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant.

The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 3.83 acres to Conditional Use Neighborhood Business (CU B-N) to accommodate retail use. This parcel is presently zoned General Industrial (I-G) with a designated highway overlay district (D-H).

The parcel is located on North Carolina Highway 16 in the Catawba Springs Township. The property is joined on the north and west by properties that are zoned I-G and to the south by R-SF. The Lincoln County Land Development Plan calls for moderate residential density development in this area.

Commissioner Brotherton asked Mr. Lawson why the applicant would ask for Conditional Use Rezoning for Neighborhood Business when he is surrounded already by industrial property. He asked what is the reasoning for the Conditional Use request.

Mr. Lawson stated that it has something to do with the actual size of the building.

Chairman Hallman opened the Public Hearing concerning Parallel Conditional Use Rezoning No. 70.

Dick Brolin, with B.K. Barringer and Associates, stated that they are the Engineers and Planners for this project. He stated that Mr. Marois has this 12 acre site he wants to develop, but his intent was to do something of a neighborhood business development in the front section. He is not sure exactly what he is going to do towards the rear, until some other negotiations with surrounding property owners are complete. He did want to move forward with that front portion. Mr. Brolin stated that the reason he has done Conditional Use is that under the Neighborhood Business code, there are some buffer requirements, both between the residential and between the industrial. Because it appears from their perspective that his proposed buildings would not be noxious to either of them, he would like to have the buffers relaxed and go ahead and create that two building project you see before you. He stated that to answer the first question he heard brought up as to how to access the land to the rear, there is a 60' road right of way that parallels that southern property line which will initially be just a driveway to provide access to the commercial development. He stated that as soon as the balance of the tract is decided on what to do, that right of way will be routed and become a dedicated public right of way.

Commissioner Gamble stated that on several occasions in his presentation Mr. Brolin has mentioned that this may happen if that happens. He stated that really what the Board is looking at is not what Mr. Brolin is saying, this indicates a commitment to what's here, and then Mr. Brolin says he is going to do such and such if such and such happens. He asked which is going to happen.

Mr. Brolin stated that the 60' road right of way that is drawn on the map will indeed be put into effect. He stated that when he goes to develop that, he will actually put in the whole road, curb and gutter to NCDOT standards, but he'll maintain that essentially as a driveway to avail himself of the two commercial buildings he has planned. He stated that as soon as they know that something else is going on to the rear of the property, what exactly that may be he'll extend that road right of way, do the improvements and then it would be appropriate to dedicate it to the state.

Commissioner Gamble stated that Mr. Brolin snuck that in there again.

Mr. Brolin stated that the portion of the property that they are concerned about tonight is not an if situation. He stated that the portion of property before the Board tonight is the zoning for the two buildings that he would like to have zoned Neighborhood Business Conditional Use, dropping the buffer requirements between the area and the Industrial to the north. Mr. Brolin stated that the site plan before the Board is the plan that he intends to pursue, in fact the architecture is already underway for the buildings in order to pursue this.

Commissioner Brotherton asked if having the buffer requirements relaxed would require a variance or if the Planning Board could make that recommendation if they see fit.

Mr. Brolin stated that this is why they have asked for a Conditional Use. This plan would be the Conditional Use Plan, with the two commercial buildings essentially as laid out. He stated that from the larger drawing, you can scale off the setbacks and that type of thing. He stated that if you'll look real close at the drawing, you don't have a rough grading that they went through in order to site the buildings and you'll note that the buildings actually sit higher than the property to the north, so there isn't much of a buffer that would be available to actually have an impact to do much buffering. He stated that to the south, there is a heavy woodland along which the property line shares, so if the church would prefer to keep that woodlands, they can definitely do it. He stated that it's a very heavy stand of pine trees.

Commissioner Brotherton asked Jeff Taylor if the Commissioners can relax the buffer requirements without a variance.

Jeff Taylor stated that the section that we're dealing under here is designed to have that flexibility to allow the Board to impose varying standards without having to go through the variance process as it would with a different type of zoning application.

Chairman Hallman stated that if the Planning Board would come back with a recommendation that would be one of the conditions.

Gary Garlow stated that his first concern is the access off of the 60' right of way. He stated that it appears from the drawing that the line is separate from the property line. He asked if that would prevent access to the property.

Mr. Brolin stated that this was for site planning purposes and he can adjust it beyond the property line. He stated that there is no intent to create a hate strip. He stated that if there is a need for buffering, that 5' would allow them to leave pine trees our put up a fence. He stated that they would prefer to make the road right of way right on the property line.

Mr. Garlow stated that his second question deals with the buffer and setback to the north. He asked if the applicant met the normal requirements, what the distance in the buffer width would be and what the distance of the building would be to the property lines.

Mr. Brolin stated that as he reads the code, the code for a neighborhood business against an industrial zone says that they would be required to put a buffer on the industrial

property. He stated that it has no impact on them. He stated that on the industrial side, you buffer yourself from them. He stated that the buffer could be as little as a five foot fence and some landscaping. Mr. Brolin stated that the setback proposed is what's listed in the neighborhood business. He stated that the buffer can be in the setback. He stated that the property to the north is sufficiently low from their side, that once grading and everything has taken place, to put a fence which is the maximum height allowed, would essentially keep you from seeing a grass bank. He stated that it would not hide the building at all.

Ron Smith asked staff for clarification on whether the applicant has to do screening against the industrial side.

Lee Lawson stated that the industrial lot would have to provide for screening, the applicant would not be responsible for screening against industrial.

Commissioner Waters stated that what is being done that is not specifically by the zoning code is that if the property on the south side is R-S or R-SF, if it's residential there should be some screening there. He stated that if he understood this gentleman correctly, he said he didn't think there was a need for screening there because a big stand of pine trees in there.

Mr. Brolin stated that if they push the right of way right onto the property line, they will create a right of way that is available to everyone up that road right of way. He stated that if they push the road back onto their side for five feet and put up a fence, then there won't be access from anyone on the south. He stated that their experience is that they are seeing more and more people and communities wanting to make this more pedestrian oriented so people can get from one site to another site conveniently. Mr. Brolin stated that they are prepared to do sidewalks across the front of this project on Highway 16 and connect it across to the church. He stated that their natural thought is that there are going to be several restaurants in this series of buildings and it would be a natural for people to just walk out of church and meander across rather than having to drive around to get into a parking lot that is only 100 yards away.

Jim Nixon stated that this is all a bit confusing to him, but his main concern is that he owns property on the south side of this property. He stated that he is concerned about the entranceway and how it's going to affect his property, which is Suburban Residential.

Commissioner Brotherton stated that Mr. Nixon's property is basically landlocked and he cannot get to it. He stated that it looks to him that this man is proposing to build a street almost to Mr. Nixon's property and if he extends it back to the industrial property on the rear, it's going to put him on the map.

Chairman Hallman stated that the applicant is going to do Mr. Nixon a big favor.

Commissioner Brotherton stated that he would give the man a big hug as he went back down the aisle if he were Mr. Nixon.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant, closed.

Conditional Use Permit No. 173 – Michelle Ledbetter, applicant:

Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 173 – Michelle Ledbetter, applicant.

The applicant is requesting a Conditional Use Permit for property located off of Westridge Lane in Lincolnton, NC. The applicant is making this request in order to accommodate a single wide mobile home. The property is located in the Residential Suburban (R-S) zoning district.

This parcel is 1.07 acres and is located in the Lincolnton Township. The property is joined on all sides by parcels that are zoned R-S. The Lincoln County Land Development Plan calls for moderate density residential development in this area.

Chairman Hallman asked if it is a permissible single wide mobile home due to age.

Mr. Lawson stated that what it is, is that it is a single wide mobile home, the actual year of it is fine. He stated that they aren't trying to put a Class D in there, it's just that a single wide requires a Conditional Use Permit in the R-S District.

Chairman Hallman opened the Public Hearing for Conditional Use Permit No. 173 – Michelle Ledbetter, applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing for Conditional Use Permit No. 173 – Michelle Ledbetter, applicant, closed.

Zoning Map Amendment No. 345 – Harold Howard, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 345 – Harold Howard, applicant.

The applicant is requesting to rezone a parcel from Multiple Zoning (M-Z) with a Designated Highway Overlay District (D-H) to General Business (B-G) with a D-H. The applicant wishes to rezone these properties in order to accommodate a mini-storage warehouse business.

The 19.61 acres parcel is located on North Carolina Highway 16 in the Catawba Springs Township. The parcel is joined to the north and south by properties that are zoned with Multiple Zoning classifications (M-Z) and to the west by B-G and R-T. The Lincoln County Land Development Plan calls for moderate residential density development in this area.

Chairman Hallman asked if it is both sides of the road.

Mr. Lawson stated that it is both sides of the railroad track.

Chairman Hallman opened the Public Hearing for Zoning Map Amendment No. 345 – Harold Howard, applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Zoning Map Amendment No. 345 – Harold Howard, applicant, closed.

Zoning Map Amendment No. 346 – Harold Howard, applicant: Lee Lawson presented the following information concerning Zoning Map Amendment No. 346 – Harold Howard, applicant.

The applicant is requesting to rezone a parcel from Residential Single Family (R-SF) with a Designated Highway overlay district (D-H) to General Business (B-G) with a D-H. The applicant wishes to rezone these properties in order to accommodate an automobile sales lot.

The .72 acre parcel is located on North Carolina Highway 16 in the Catawba Springs Township. The parcel is joined to the north and west by properties that are zoned B-G and to the south by R-SF. The Lincoln County Land Development Plan calls for moderate residential density development in this area.

Chairman Hallman opened the Public Hearing for Zoning Map Amendment No. 346 – Harold Howard, applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing for Zoning Map Amendment No. 346 – Harold Howard, applicant, closed.

Commissioner Brotherton stated that this property is zoned R-SF, but there has been a business, a service station, on this property since the mid 40's. He stated that it's obvious when the original zoning was put in place, it was improperly zoned at that time. He stated that the structure is still standing and the owner has done a lot of renovations on it in the last few years.

Zoning Map Amendment No. 347 – Kelly Sherrill and La Donna Sherrill, applicants: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 347 – Kelly Sherrill and La Donna Sherrill, applicants.

The applicants are requesting to rezone two (2) parcels from Residential Single Family (R-SF) with a Designated Highway Overlay district (D-H) to Neighborhood Business (B-N) with a D-H. The applicants wish to rezone these properties in order to sale.

The 1.19 acres parcel and the 2.73 acres parcel are located on North Carolina Highway 16 in the Catawba Springs Township. The parcel is joined to the north and west by properties that are zoned R-SF and to the south by B-N. The Lincoln County land Development Plan calls for moderate density development in this area.

Chairman Hallman opened the Public Hearing for Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill, applicants.

La Donna Abernathy stated that she is here tonight speaking on behalf of her sister, Kelly Jones, her father Ralph D. Sherrill as well as herself to address the Commissioners in reference to the rezoning of a piece of property that they jointly own. She stated that the address of the property is 1675 North Highway 16 and is located in the eastern end of Lincoln County. The dimensions of the property are 4.23 acres and they are here requesting the Commissioners rezone this property from the current status of residential to Neighborhood Business. She stated that her sister, her father, and herself feel that by rezoning this acreage, it cannot be anything but a positive attribute to the County, by being able to provide more of an opportunity for business development, for instance a professional business complex, medical or dental office, or a daycare. She stated that these would in turn benefit the citizens of the community as well as enhance the economic growth for Lincoln County. Ms. Abernathy stated that she possesses a Bachelor Degree in Early Childhood Development and her sister has a degree in Accounting and is pursuing her Master's in that field. She stated that rezoning the area in point would result in providing a diverse array of services such as a professional building complex and a daycare to an area where the community is continually expanding.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Map Amendment No. 347 – Kelly Sherrill and La Donna Sherrill, applicants.

Zoning Text Amendment No. 348: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Text Amendment No. 348.

Amend Section 6.6 to state:

Certificate of Occupancy and Approval for Power Connection

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Amend Section 2.4, Definitions, to state:

Approval for Power Connection

Orange label placed on a meter box which notifies the local provider of electricity that a structure has been issued a building permit and a zoning permit, by Lincoln County, and is permitted to be connected to power.

Commissioner Brotherton stated that in the event that only a segment of a proposed development has been approved, he asked if he was interpreting this right, that even to get one section of a parcel complex approved, the conditions for the entire project must have been met before one unit is approved for electricity.

Lee Lawson stated that this is basically for Planned Districts, where there has been a particular phase that has been approved and has to come back for Commissioner approval for the next phase, so they can go ahead and get power for the first phase.

Commissioner Brotherton asked at what point in time the conditions would have to be met.

Mr. Lawson stated that the conditions would need to be met each time it was done and they were going to pull a CO and get power.

Commissioner Brotherton stated that if you have a business complex, a strip shopping center with eight or ten units in it, and the conditions call for screening on each side. He asked when the first unit is approved for electricity if the screening must be up on each side of the parcel.

Mr. Lawson stated that all screening would have to be up before electricity would be approved.

Chairman Hallman opened the Public Hearing for Zoning Text Amendment No. 348.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Zoning Text Amendment No. 348 closed.

The Planning Board reconvened to the 2nd floor balcony.

Resolution to Approve Purchase of Roll Off Truck: Leon Harmon stated that last month the Board talked about the possibility of piggybacking and buying another roll off truck on last years contract that was approved. He presented the following Resolution to approve the purchase of an additional truck to use at the Solid Waste Department. He stated that the money is in the budget to make lease-purchase payments. Mr. Harmon stated that if the Board approves it, he will get proposals from banks to finance it and will come back next month with those figures.

RESOLUTION TO APPROVE PURCHASE OF ROLL-OFF TRUCK

WHEREAS, Lincoln County operates a system of convenience sites across the County to allow for the sanitary disposal of household waste.

WHEREAS, In order to operate these sites efficiently, it is necessary to purchase roll-off trucks and other equipment to service these sites.

WHEREAS, Lincoln County has a need to purchase a new roll-off truck to transport household waste containers from these convenience sites to the Lincoln County Landfill.

WHEREAS, On September 13, 1999, after receiving formal bids, Lincoln County Commissioners approved the purchase of a new truck from Volvo and GMC Truck Center of Carolina in the amount of \$85,550.

WHEREAS, Volvo and GMC Truck Center has made available another truck for the same price as the one purchased last year in the amount of \$85,550.

WHEREAS, N. C. G. S. 143-129 allows a local government to piggyback on a previous contract that was awarded through the formal bid process, after a notice of intent of such award has been published.

NOW, THEREFORE, BE IT RESOLVED: The Lincoln County Board of Commissioners, hereby approve the purchase of a Volvo truck from Volvo and GMC Truck Center in the amount of \$85,550 as authorized in N. C. G. S. 143-129.

Adopted this the 11th day of September, 2000.

James A. Hallman, Chairman
Board of Commissioners

Commissioner Gamble asked Mr. Harmon if we have plenty of money.

Mr. Harmon stated that money for payments this year are budgeted.

Commissioner Gamble asked how long one of these trucks lasts.

John Avery stated that it depends on how long you can keep it together. He stated that they have one that is a 1981 model, which they are still using. He stated that they have six trucks total, this new one will be seven.

Commissioner Gamble asked if they have a payout or anything that makes them make money or not lose money.

Mr. Avery stated that they are not making any money.

Commissioner Gamble asked if Mr. Avery charges for his services.

Mr. Avery stated that they do not charge, it is funded through the general fund.

Commissioner Gamble asked if Mr. Avery is going to need more trucks.

Mr. Avery stated that they still have the first roll off truck they purchased, which is the 1981 model. He stated that they have not caught up enough to replace that truck yet.

UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the Resolution to Approve Purchase of Roll-Off Truck.

East Lincoln Library Funding: Stan Kiser stated that he has given the Board the following Steps for East Lincoln Library Construction.

- 1) Notify Local Government Commissioner of intent.
- 2) Receive application from Local Government Commission.
- 3) Select Architect.
- 4) Bid project out to construction firms.
- 5) Bid project out to banks for financing.
- 6) Receive Local Government Commission approval.
- 7) Board of Commissioners approval on construction and financing bids.

He stated that when the State required us to build a Sludge Facility, we decided to use the Lease-Purchase or the Security Interest, which is the Section 160A-20 from the General Statutes and is the choice of financing he is recommending here. He stated that assuming we have to borrow \$850,000, we already have \$150,000, for ten years at 6% would run roughly \$114,000 per year. He stated that if we borrowed \$850,000 for fifteen years at 6%, it would be roughly \$87,000 per year. Mr. Kiser stated that this is where we are in the process and the next step would be to select an Architect and start some type of design. He stated that he also figured for \$750,000, since we already have \$150,000 in CIP. He stated that \$750,000 financed for ten years at 6% would be \$101,000 per year, and \$750,000 for ten years at 6% would be \$77,000 per year.

Commissioner Brotherton asked how many years the Jonas Library was financed for.

Leon Harmon stated that he thinks the County accumulated money and paid for it as they built it.

Commissioner Gamble stated that this is right, it was a very conservative operation.

Commissioner Brotherton stated that he would think there would be enough money in the fund balance that we could just go ahead and pay for this one.

Commissioner Gamble stated that he thinks the Board should talk about that.

Addressing Ordinance Public Hearing: Jeff Taylor, County Attorney, recommended that the Board defer this until the September 18, 2000 meeting. He stated that this is still a work in progress and they are still making revisions. He stated that he had a recommendation from the Institute of Government on Friday that the Board consult some surrounding counties for some suggestions about how some of the naming and renaming procedures are handled.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to defer the Addressing Ordinance Public Hearing to October 2, 2000.

Improvements at Law Enforcement Center and Animal Shelter: Nick Montanez, from M.B. Kahn Construction Company, stated that these two items are some change order requests made on behalf of the Sheriff's Department. He stated that the first items are change orders to the Lincoln County Animal Shelter. Mr. Montanez stated that these are changes that have been made on behalf of the Sheriff's Department with respects to the Animal Shelter building. He stated that most of these items have already been implemented, they have run these numbers past the Sheriff's Department for authorization to go ahead and proceed with these items. Mr. Montanez stated that he believes this would probably exceed the County Manager's authorization to sign, so they are asking for the County Commissioners to authorize the execution or payment of the change orders.

Mr. Montanez stated that the first item is changes to the kennel fence, this is the interior kennel fence. He stated that the changes were basically made to allow for the Animal Control personnel to be able to properly clean, or more easily clean these fences, thereby minimizing any transmitting of diseases between the various animals. He stated that they are actually adding more fence in there, in order create a greater separation. He stated that there are a total of 48 individual cages in there.

Mr. Montanez stated that the second item is adding exterior fence and mesh. He stated that Animal Control people want to create an exterior enclosure along the exterior portion of the property. He stated that this would be for the housing of animals, allowing them to get out from within the building and still keep them in a pinned area. He stated that in addition to that is also the enclosure of the rear portion of the building, which would be for the euthanasia chamber portion of the Animal Shelter. He stated that this would also include some kind of vinyl blinds to prevent anyone from viewing the euthanasia of animals.

Mr. Montanez stated that the third item is the painting of the interior block kennel. He stated that in an effort to make sure the project was in budget, the architect inadvertently left off the painting of the interior block portion of the kennel. He stated that the painting is to provide some kind of block filler and an enamel paint basically that would be resistant to abuse by the animals. He stated that it will also be protection on the block.

Mr. Montanez stated that the next item is the purchase of the hair interceptor per contract. He stated that the hair interceptor was not clearly defined in the specifications and in

order to not delay the bidding process at the time of bids, they had identified that the County would go ahead and purchase the hair interceptor. He stated that this is the purchase of the interceptor itself, the cost of labor was included in the contract.

Mr. Montanez stated that the next item is adding a concrete slab at the rear of the building to accommodate the euthanasia chamber area, adding 2 floor drains to exterior slabs.

Mr. Montanez stated that the VCT in offices, corridors, and restrooms was left off in an effort to make sure the project came in under budget. He stated that they only addressed the bare necessities in the bidding. He stated that they would like to enhance these offices, corridors and restrooms by providing vinyl composition tile in there.

Mr. Montanez stated that the six door closures were a code issue. He stated that they need to provide some additional doors. He stated that the County Inspector, in an effort to identify means of egresses, closures needed to be added on these doors.

Mr. Montanez stated that the next item is for replacing damaged materials for the metal building. He stated that as the metal building sat for quite some time, the weather itself deteriorated some of the panels.

Mr. Montanez stated that the last item is overhead and profit for the Contractors. He stated that is a contractual item that the Contractor has if he performs the work, it represents basically a 15% market of profit and overhead, which is a stipulated item in his contract.

Commissioner Gamble asked why the contract was so deficient on recognizing what the thing was going to cost. He asked how much these additions would cost.

Mr. Montanez presented the following figures for the changes.

Changes to Kennel fence	\$6,000.00
Add Exterior Fence & Mesh	\$3,600.00
Paint Block walls of interior Kennel	\$2,200.00
Purchase Hair Interceptor per contract	\$ 900.00
Add 6" concrete slab @ rear of building	\$ 700.00
Add two (2) floor drains to exterior slabs	\$ 500.00
VCT in offices, corridors and restrooms	\$2,300.00
Add 6 Door Closures	\$1,100.00
Replace damaged materials for metal building	\$3,450.00
Overhead & Profit – Contractors	\$3,078.75
 TOTAL CHANGE ORDER AMOUNT	 \$23,828.75

Commissioner Gamble asked what the bid price was compared to what they had money for bid and how it stacks up to where we are. He asked if they have gotten up to the bid price.

Mr. Montanez stated that they are right at the dollar amount anticipated for the building. He stated that the building was \$225,000 total, and actual bids themselves came in at \$167,000 for the building itself. He stated that of this additional \$23,828.75, approximately \$4,000 are added items either for site conditions or contractual responsibilities. He stated that the rest of the changes are at the request of Animal Control people.

Chairman Hallman asked what a hair interceptor is.

Mr. Montanez stated that the hair interceptor catches animal hair before it goes into the sewer system.

UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the Change Order in the amount of \$23,828.75.

Mr. Montanez stated that the second item he would like to address deals with the road and parking lot pavement. He stated that at the site of the detention center, there were some items they were looking at during the early onset of the project there was a concern about the project coming in over budget. He stated that in it's early design stages they wanted to make sure the project was able to be built. He stated that they only addressed the items that absolutely had to be present and in an effort to do that, some of the items were purposely omitted, so that if the funds were available at the completion of the projects they could come back and address them then.

Mr. Montanez stated that early during the initial design of the entire site the Sheriff's Department and County Manager, Rick French, agreed to remove these items from the project in an effort to meet the proposed budget for the new detention center of \$9.5 million dollars of an appropriated \$10 million dollar funding. It was suggested and agreed that these items would be handled as requested changes at the completion of the project provided that additional funds were available. The final project expenditure for the development of the detention center and animal shelter is scheduled to be \$9.3 million dollars, which would be \$700,000 under that which was initially appropriated. He stated that the \$9.3 million is assuming that even these change orders are accepted.

Mr. Montanez stated that the road improvements are as follows:

1. Extend existing road from detention service entrance location towards existing onto Sigmon Road.
2. Provide for a Sheriff's impound parking lot with fence.
3. Provide for Sheriff's dumpster pad and bollards.
4. Provide for additional pipe bollards around detention gas meter.
5. Provide for additional gravel parking lot for Sheriff vehicles.
6. Provide a paved road and parking lot at the New Animal Shelter.
7. Provide additional gravel road accessing the Euthanasia Chamber at the New Animal Shelter.

Mr. Montanez stated that the sum of this particular change order is \$72,831 and is part of the \$9.3 million dollars.

Commissioner Brotherton stated that we are going to save enough on the jail to build the Library in east Lincoln.

Commissioner Waters asked what the expected opening date of the new Animal Shelter is.

Mr. Montanez stated that the building is complete, they are holding off predicated on these two items specifically with respects to the opening of the facility. He stated that the Sheriff's Department and Animal Control Officers are anticipating that within the month of September, probably towards the end or first of October, the actual shelter will become available. He stated that in talking with Chief Deputy Bill Beam, Mr. Beam anticipates trying to move into the building at the end of September.

UPON MOTION by Commissioner Saine, the Board voted unanimously to approve the \$72,831 addition to the pavement and parking lot improvements at the Sheriff's Office and Animal Shelter.

Commissioner Gamble asked who is on the Sheriff's staff. He stated that it might be Mr. Buff.

Chairman Hallman stated that Mr. Buff is.

Commissioner Gamble stated that he wanted to know how soon they can get a chart that will be marched in here and put on stand, and say this is what the population or census is projected to be, capacity of this project, this is what it was on such and such opening date, and this is what it is this week, this is the food budget, it is falling within these parameters. He stated that he would just like to know, he keeps hearing stories that we have more people over there working than we have prisoners and he doesn't have any reason to believe that at all. He asked Mr. Buff if he could put a chart on some stands and show us population trends, diet trends, meal trends, and dog trends. He stated that we are entitled to do what we can.

Chairman Hallman called for a five minute recess.

Chairman Hallman called the meeting back to order.

Positron Intelligent Workstations: Leroy Buff stated that the request is for the Positron Intelligent Workstations Power Map software program. He stated that this software works in conjunction with our present 911 telephones. He stated that basically what it does is when someone dials 911, it instantaneously shows the telecommunicator on a map, using the existing map database where the 911 call is coming from. He stated that right now, when they get a 911 call and it's in an area they are not familiar with, they have to go to the mapping program and put the address in and find it. He stated that this software program will give them this information instantaneously as the telecommunicator is answering the telephone. He stated that we would be the first

county in North Carolina to use this software program. Mr. Buff stated that Positron has a tremendous work record and reliability with their equipment. He stated that they have been using Positron telephone equipment since they started a 911 center. He stated that the software is also Phase 2 compliant with the wireless commission. He stated that when the FCC decides to mandate whether to go with a triangulated location of cell phones or whether they use the GPS, this software is compliant either way. He stated that this has to be done by the end of 2001. Mr. Buff stated that when this is done, at the end of 2001 cell phone calls will also show their location.

Chairman Hallman asked what happens when a cell tower outside Lincoln County picks someone up.

Mr. Buff stated that they will not show up on the map and will be transferred to another county.

Mr. Buff stated that they receive a lot of cell phone calls and they do not know where they are calling from. He stated that the caller has to give landmarks so the telecommunicators will know if they are in Lincoln County or not.

Commissioner Waters asked if the money for this is coming from the 911 account.

Mr. Buff stated that it will be coming from the 911 account, which can only be used for enhancement and upgrades to the 911 system.

A MOTION by Commissioner Waters to accept the proposal and fund it, which will be \$20,137 one time, and \$2,600 monthly.

Commissioner Gamble stated that he is in favor of this, but there ought to be a time when they say this has gotten so common, plain, ordinary, and cheap that they are going to give the service cheaper next year, and then do this again in about five years. He stated that he thinks this should be in the contract. He asked the County Attorney what he thought about it.

Jeff Taylor stated that he doesn't think it would be a bad idea to explore for future situations.

Commissioner Waters stated that you have to have somebody that will provide the same service, and that may not be possible right now.

Chairman Hallman asked if there is a term limit on the contract, where it can be renegotiated at some time.

Leroy Buff stated that it is an annual contract.

Vote: Unanimously approved.

Public Hearing for Nixon's Lakeview Lots: Chairman Hallman opened the Public Hearing for Nixon's Lakeview Lots.

Celia Deese stated that she lives on Lakeshore Road South, in the Lakeview Lots of Nixon Heights. She stated that they are requesting a leash law, and since the forms they petitioned, they have had two more people plus a vacant house to come forward that did not get a chance to sign this. She stated that she feels it is very important to have a leash law, and a lot of dogs have been bit in their area, including her little Pug, who has been attacked three times.

Chairman Hallman stated that he assumes the majority of property owners have signed the petition. He asked how many lots are in the subdivision.

Commissioner Brotherton stated that it looks like 55 lots.

Chairman Hallman stated that the simple majority has been met.

Commissioner Gamble asked if you have two dogs that get onto each other, and you don't know who the provocateur is, whose dog do you indite.

Commissioner Waters stated that the one that the one that is off it's property is the one in the wrong. If both are off their property, they both are.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Leash Law for Nixon's Lakeview Lots closed.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to impose the Leash Law for Nixon's Lakeview Lots with an effective date of October 1, 2000.

Proclamation Declaring September 25 – 29, 2000 as Employ the Older Worker Week in Lincoln County: Chairman Hallman presented the following Proclamation for the Board's approval.

Lincoln County, North Carolina

Proclamation

Between now and the year 2010, the pool of younger workers will decline significantly. At the same time, the older population is growing and is predicted to increase sharply when the oldest members of the baby-boom generation will be nearing 65 and the youngest will be 45.

Older Americans offer employers the experience and wisdom of a lifetime of working and training. Older workers are productive and cost-effective. They can be trained in new technologies, are flexible regarding employment and schedules, and have lower turnover

and absenteeism rates. Employers realize that it makes good business sense to hire older workers.

Therefore, the Lincoln County Board of Commissioners take great honor and privilege in declaring the week of September 25-29, 2000 as **Employ the Older Worker Week** throughout Lincoln County. We encourage all employers to recognize the vast potential of older workers and assist them in entering and remaining in the workforce.

UPON MOTION by Commissioner Waters, the Board voted unanimously to adopt the Proclamation Declaring September 25 –29, 2000 as Employ the Older Worker Week in Lincoln County.

Public Hearing on Expenses on Infrastructure for Industrial Park: Jeff Taylor stated that this is a technicality at this point. He stated that this is concerning the expenses approved during the budget process for the \$963,000 for the roads into the Industrial Park. He stated that it is necessary to have a public hearing to approve the expenditures and technically the budget public hearing may have sufficed, but just to make sure they wanted to clear it up tonight.

Barry Matherly stated that back in May, the Board appropriated the funds to do the necessary infrastructure improvements at the Lincoln County Industrial Park. He stated that according to the new book Economic Development Law, just published a few months ago, that's fine, but now they say as an extra measure they would like to have a public hearing when it's time for the money to be funded.

Mr. Matherly presented the following Preliminary Draw Schedule.

PRELIMINARY DRAW SCHEDULE LINCOLN COUNTY INDUSTRIAL PARK

August

Environmental & wetlands services	\$12,000
Survey & mapping	\$12,000
Preliminary engineering	\$12,000
Final engineering & construction plans	\$47,000
Geotechnical services	\$6,000
Platting	\$3,000
Reimbursables & permit fees	\$8,000
Park Signage allowance	\$65,000
Development fee	\$10,000

Note: Design services is for entire length of entrance road

Design total	\$175,000
Contingency	\$25,000
TOTAL	\$200,000

September

Road Improvements, +/-1,500 LF (Grading & E/C)	\$75,000
Sewer improvements	\$60,000
Contingency	\$25,000
Development fee	\$10,000
TOTAL	\$170,000

October

Road Improvements, +/-1,500 LF (Grad., SD, Paving)	\$115,000
Sewer Improvements	\$60,000
Contingency	\$25,000
Development fee	\$10,000
TOTAL	\$210,000

November

Road Improvements, +/-1,500 LF (Paving)	\$90,000
Sewer Improvements	\$100,000
Water improvements	\$35,000
Contingency	\$25,000
Development fee	\$5,000
TOTAL	\$255,000

December

Road Improvements, +/-1,500 LF (Paving)	\$20,000
Sewer Improvements	\$30,000
Water Improvements	\$15,000
Entrance landscape allowance	\$25,000
Street lighting	\$8,000
Contingency	\$25,685
Development fee	\$4,900
TOTAL	\$128,585
GRAND TOTAL	\$963,585

Stan Kiser, County Manager, asked that the contingency money be left with the County.

Chairman Hallman opened the Public Hearing on Expenses on Infrastructure for Industrial Park.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Expenses on Infrastructure for Industrial Park.

UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the Draw Schedule.

Resolution in Support of Community College Bond Issue: Chairman Hallman presented the following Resolution.

**RESOLUTION IN SUPPORT OF COMMUNITY
COLLEGE AND UNIVERSITY BONDS**

WHEREAS, The North Carolina General Assembly has approved Senate Bill 912, signed by the Governor and enacted as Session Law 2000-2, placing on the ballot a proposal to issue \$3.1 billion in general obligation bonds, proceeds from which are to be used to improve facilities within the state's university system (\$2.5 billion) and community college system (\$600 million); and

WHEREAS, North Carolina's community colleges and universities provide our citizens with the opportunities to learn the skills and educational experience that improve the quality of our cultural and economic life; and

WHEREAS, the facilities within these universities and community colleges-including laboratories, classrooms and other training facilities-must be improved and modernized if our institutions are to retain the capacity to provide the training and education our students deserve; and

WHEREAS, chapter 115 D of the North Carolina General Statutes place on Boards of County Commissioners responsibility for appointing community college trustees and providing funds to create and maintain community college facilities; and

WHEREAS, proceeds from the bond issue will provide great assistance to North Carolina counties in improving these community college facilities and in assuring quality facilities for our citizens attending the state's universities.

NOW, THEREFORE BE IT RESOLVED that Lincoln County strongly supports the passage of the community college and university bonds on the ballot November 7.

Adopted this _____ day of _____, 2000.

Chairman Hallman stated that Lincoln County would stand to gain about \$400,000 on our portion of Gaston College.

Commissioner Brotherton stated that he wonders what that number is based on. He stated that he knows in some counties the population is greater, and some have more students. He stated that he is often concerned when it comes to these Bond Referendums if Lincoln County will get a fair shake in this.

Chairman Hallman stated that some counties are required to have a local match, but in our case, we are overmatched by \$1,448,912. He stated that he is going to use a term Dr. Gamble used one time, he wonders if having a little pull means anything.

Commissioner Gamble stated that it pays to have pull.

Commissioner Waters stated that his guess is that it has to do with the size of the college. He stated that he cannot find Mecklenburg County on the list.

Commissioner Gamble asked Representative Joe Kiser to tell the Board about this Bond.

Representative Joe Kiser stated that Cumberland County got about \$13 million dollars, but they do have a matching fund. He stated that his concern about this is that some of the smaller counties will not be able to make the match and will not get their share. He stated that he is concerned with what will happen to the money if some of the counties cannot make the match.

Commissioner Brotherton stated that he believes there is a Senator in Cumberland County named Senator Rand, who has pull.

UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the Resolution in Support of the Community College and University Bonds.

Lake Norman Marine Commission: Chairman Hallman stated that he passed out a letter to the Board from Catawba County Board of Commissioners.

Commissioner Brotherton presented the following Proposal concerning the Lake Norman Marine Commission.

The Lake Norman Marine Commission is expected later this month to approve an ordinance requiring mandatory education of eight hours for licensing of boat operators on Lake Norman. My understanding is this will apply only for residents of the four counties bordering Lake Norman. I interpret this such that a resident from any of the other 96 counties would not be subject. This is somewhat like saying Lincoln County residents must have a drivers license to drive on the highways of this county but residents from other counties are not required to have such.

The Marine Commission was organized as an advisory body. They are attempting to become a legislative body, as is the case so often with committees or task forces. The governing body that chartered them has a different opinion and ignores the recommendation, which is usually difficult for the committee to accept.

More regulations and bureaucracy is not the answer. The Marine Commissions idea should be rejected and this board should be prepared to deal with the matter if it is not rejected. We have Raleigh, Washington and local governments creating more government daily. We do not need a non-elected body creating additional bureaucracy. If they are not stopped now, what will they do next? Their intentions are good but the proposal is one of those feel good things. Isn't it great? Haven't we done something wonderful? Look what we've done for you! We've justified our existence, now you deal with the monster we've created.

They are ignoring the real problem. Research I conducted last week shows that alcohol is involved in most major accidents on the lake. Estimates ranged from 60% and up.

A member of the Marine Commission was quoted in print recently as saying, "No one has given us any better suggestions." I do have a suggestion. Address and stop avoiding the real problem - - - alcohol. Seek special legislation that states "any boat or craft found to contain alcohol open or closed, sealed or unsealed, will be seized, sold at public auction with proceeds, after any lien holder is satisfied will be used to place additional enforcement officers on the lake." That probably will not provide much funding however, because I believe after 5 or 6 auctions the message will be out and the lake will be a much safer and drier place to enjoy.

Requiring individuals to sit through an eight hour course will perhaps make commission members feel better but you can't educate people into using common sense or courtesy especially if they are under the influence. I wonder if the Marine Commission has the courage to undertake an attempt to obtain the special legislation I have referred to. I wonder if those in Raleigh have the courage to grant it.

It is time for one of the county boards to take action. A vote by this board asking them to drop their proposal will probably be ignored. A vote by one of the four county boards to withhold any future funding will as Barney Fife would say, Nip it, Nip it in the bud.

I believe this county has only provided 25% of the budgeted amount for the year 2000. There is perhaps \$12,000 of what I will call opportunity left.

It is seldom I am in agreement with Mr. Fortenberry of News at Norman, as you are well aware I'm collecting Thumbs Downs but his recent editorial stating "you can't legislate responsibility" is totally accurate. The Marine Commission will not have to attempt this if the true problem is addressed and dealt with.

There are two things I propose or will propose in the future. First, we should seek support through a resolution from other counties to ask the General Assembly in January to revoke any law making authority, the Marine Commission thinks it has.

Second, should they follow through with their proposal in late September as I expect, I will make a motion at the first meeting of this board in October to discontinue any additional funding for the Lake Norman Marine Commission, and I believe my motion will pass.

I'll close by saying Catawba County is also concerned based on the letter that I have from Commissioner Hibbitts. Hopefully each of you have read this letter. I will admit he is somewhat more gentle with his approach than what I am proposing, but mine is guaranteed to work, if everything else fails.

Commissioner Gamble stated that he would like to compliment Mr. Brotherton on his intrepid, dynamic leadership on this tough problem and he hopes it will work. He stated that he's said all along that the only thing that enforces any law is hit the person's pocketbook. He stated that if you don't get to their pocketbook, you haven't done anything.

Commissioner Brotherton stated that taking their boat would hit them pretty hard.

Commissioner Gamble stated that it could be a \$500 fine. He stated that if you don't get to their pocketbook, they're laughing at you. He stated that he does respect Commissioner Brotherton's attempt.

Chairman Hallman told Commissioner Gamble that if this thing goes through, he will have to go to school for eight hours to go fishing.

Commissioner Gamble stated that he has sold his boat.

Chairman Hallman stated that he feels the comments should be forwarded to the Lake Norman Marine Commission. He stated that he thinks the Marine Commission needs to know the feeling of this Board.

Commissioner Waters stated that he may be somewhere between Mr. Brotherton and the man from Catawba County. He stated that he's already said 60 days. He stated that he questions it, and apparently it has already been questioned. Commissioner Waters stated that he does not know that they have any authority to pass an ordinance.

Commissioner Brotherton stated that about six months ago, he had the same theory. He stated that Mr. Jeff did a lot of research, and had a hard time finding it, but it was there that they obtained it when another lake commission received it.

Jeff Taylor stated that he cannot recall the specific details, but believes it was adopted in 1969. He stated that he got a copy of it from the staff to the Lake Norman Marine Commission. He stated that it does provide that they do have regulatory authority. He stated that it was the first he had ever seen of it, because he doesn't think they have exercised it very much. Mr. Taylor stated that they do apparently have authority to adopt "reasonable regulations" for health and safety of people on the lake. He stated that just from what he has heard about it tonight, he has not seen the proposed legislation, he has a question about whether it's unconstitutional if it only applies to people in certain counties. He stated by that logic, there is maybe a Constitutional Law argument against it.

Chairman Hallman stated that Mr. Hibbits letter went to all five of the Marine Commissioners and he thinks the Board's concerns should be reduced to writing and forwarded to them also. He stated that if the Marine Commission don't know the Board has a concern about it, it leaves them open to use their judgement and discretion in determining what is best for Lake Norman.

Commissioner Brotherton stated that he thinks they have lost track with what they were established for. He stated that it was to be an advisory board to the four Boards of Commissioners. He stated that not always will the four Boards of Commissions agree with their recommendations, but that was the original intent of why it was originated. He stated that they also make recommendations to Duke Power concerning pier situations.

Commissioner Waters stated that this is the part of Commissioner Brotherton's thing that he agrees 100% with, is the advisory part. He stated that he is not going to question what Jeff said, because Jeff certainly knows more about it than he does. He stated that he finds it hard to believe they can pass an ordinance that will cover just the residents of four counties. He stated that he won't sell his boat, he'll just move to Cleveland County and won't have to bother with the schooling. He stated that he agrees with Terry 100% that the very least the Board ought to do is tell them the Board thinks they are an advisory commission, not a legislative commission.

Commissioner Brotherton stated that a non-elected body like that, when they start creating ordinances, can create a lot of headaches for Boards of Commissions, Law Enforcement agencies, etc.

Commissioner Waters stated that he thought the Marine Commission was only proposing, not passing an ordinance.

Commissioner Brotherton stated that they had a public hearing on this a few weeks ago, and there were like 12 people present supporting this, and 4 against it. He stated that Mr. Fortenberry has been covered up with telephone calls in his newspaper office of people calling opposing this. He stated that Mr. Fortenberry wrote an article in opposition to this last week.

Commissioner Saine stated that she agrees with Commissioner Brotherton and Commissioner Hibbits. She stated that this is another layer of government and it's taking away the citizen's rights.

Commissioner Brotherton stated that he thinks they are avoiding the problem, when the numbers show that 60% of accidents are alcohol related, it's just swept under the rug. He stated that we don't address the problems today, because it's not popular to do that.

Commissioner Waters stated that he is under the impression that one can get a DWI in a boat.

Jeff Taylor stated that there is some Legislation on that. He stated that it's subject to enforcement problems such as the Sheriff's Department has Officers out on the lake, each county that is on the lake has some sort of contingent to patrol the area within their county. He stated that when they take somebody in, there's a substantial time interval from the time they bring somebody in to shore and go to a breathalyzer machine. He stated that one of the mechanisms would be to get more of the portable machines to do on the spot testing.

Commissioner Gamble stated that he is pessimistic on all this, because they can't even control those little jumping ducks on the water. He stated that he hears more complaints about them than any other thing on the lake. He stated that he goes to the lake some, and sees the people swimming and boating and the people really complain about those little ducks.

Chairman Hallman asked if Commissioner Gamble was referring to jet skis.

Commissioner Gamble stated that he was.

Commissioner Gamble stated that if Mr. Brotherton wants it, he thinks it is unusually wise and the Board should support it.

Chairman Hallman stated that staff can reduce the statement Terry wrote to writing and send it to the Marine Commission.

Commissioner Waters stated that he still has a problem with starting a fight before the Board knows if there is a fight. He stated that this is what the Board is doing if it sends this letter as written, it's starting a fight before it knows if there is one.

Commissioner Brotherton stated that it's called blackmail, if you do it, you're in trouble. He stated that it is an attention-getter.

Recommendations from the Planning Board – October 2, 2000:

Parallel Conditional Use Rezoning No. 69 – Waterside Crossing, LLC, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board recommended approval, 6 – 0 with the conditions that each phase must meet it's traffic study and that it get approval from the County Engineer and NCDOT.

Commissioner Waters asked about the package the Board got that has 1, 2, 3 and 4 on it. He asked if the Board is also approving these parcels of land.

Lee Lawson stated that this is the rezoning, all those parcels are being rezoned.

Commissioner Waters stated that the drawing only shows parcel one and the others seem to be vacant pieces of land. He stated that he is concerned about what 2, 3, and 4 are going to become. He stated that he's only got a drawing showing a planned development in one of these, he asked about the other four.

Lee Lawson stated that when this came up last month, they passed out reports and the actual site plan that went with it. He stated that the site plan showed all of them combined as one parcel.

Larry Griffin, Jr. stated that there are four parcels that make up this whole development and the first one is already done. He pointed Phase II out on the map for Commissioner Waters.

Chairman Hallman presented the findings of fact for Parallel Conditional Use Rezoning No. 69 – Waterside Crossing, LLC, applicant.

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

LINCOLN COUNTY, NORTH CAROLINA

Application Number: PCUR #69

Date: October 2, 2000

Applicant's Name: Waterside Crossing Residential, LLC

Address: 19141 West Catawba Ave.
Cornelius, NC 28031

Property Owner's Name: Perry P. & Doris B. Sifford, Dennis & Harriet S. Sifford,
Shoreline Property Management, Jean S. Dellinger,
Waterside Crossing Residential, LLC

Address:

Property Location: At Waterside Crossing Development

Existing Zoning: R-T

Proposed Conditional Use: Single Family homes at a maximum density of two units per acre.

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 ____
Factual Reason Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
Motioned by Commissioner Gamble. Vote: 5 – 0 AYES: Hallman, Brotherton, Waters, Gamble, Saine.

2. The use meets all required conditions and specifications. Yes X No ____
Factual Reason Cited: The use meets all required conditions and specifications.
Motioned by Commissioner Gamble. Vote: 5 – 0 AYES: Hallman, Brotherton, Waters, Gamble, Saine.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No _____
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
Motioned by Commissioner Gamble. Vote: 5 – 0 AYES: Hallman, Brotherton, Waters, Gamble, Saine.

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 _____
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.
Motioned by Commissioner Gamble. Vote: 5 – 0 AYES: Hallman, Brotherton, Waters, Gamble, Saine.

After having held a public hearing on October 2, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

A MOTION by Commissioner Gamble to approve Parallel Conditional Use Rezoning No. 69 with the following conditions and rezoning subject to the Conditional Use Permit:

1. All Phases of Waterside Crossing must complete their traffic impact studies' improvements
2. The subdivision must be approved by the County Engineer
3. All roads must be approved by NCDOT.

Vote: Unanimously approved.

Chairman
Lincoln County Board of Commissioners

Date

UPON MOTION by Commissioner Gamble, the Board voted unanimously to rezone the property to CU P-MU.

Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval with the condition that the private road, or street right of way that is going to be recorded on that lot needs to extend at least fifty (50) feet past the Nixon property that is to the south, and move the street right of way five (5) feet south on that

piece of property and that the ability to rework the right of way in the future with the future developer of the I-G section of that parcel.

Commissioner Brotherton asked if this means that the Nixon property will have access to that road. He stated that he may have a problem there, he's sure that if a man has land that is land locked, he'd like to get to it, but he doesn't know whether the County should be requiring someone else to be building him a road all the way to it without him contributing to the cost of it.

Mr. Lawson stated that they are only planning right now to extending that road to the end of the project, but will allow the right of way on out to the Nixon property.

Chairman Hallman presented the findings of fact for Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant.

RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: PCUR #70 Date: October 2, 2000

Applicant's Name: Germaine Marois
Address: PO Box 2665
Cornelius, NC 28036

Property Owner's Name: Same as above
Address: (Same as above)

Property Location: NC 16 near Denver

Existing Zoning: I-G

Proposed Conditional Use: Retail/Commercial Center

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 _____
Factual Reason Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
Motioned by Commissioner Brotherton. Vote: Unanimously approved.

2. The use meets all required conditions and specifications. Yes X No _____
Factual Reason Cited: The use meets all required conditions and specifications.
Motioned by Commissioner Brotherton. Vote: Unanimously approved.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No _____
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
Motioned by Commissioner Brotherton. Vote: Unanimously approved.

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 _____
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.
Motioned by Commissioner Brotherton. Vote: Unanimously approved.

After having held a public hearing on October 2, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

A MOTION by Commissioner Brotherton to approve Parallel Conditional Use Rezoning No. 70 – Germaine Marois, applicant, with the following conditions:

1. The recorded right-of-way will exceed 50 feet past the Nixon property.
2. The right-of-way will be moved 5 feet to the south.
3. The right-of-way be able to be reworked to accommodate the developer of the I-G section of the parcel.

Vote: Unanimously approved.

Chairman
Lincoln County Board of Commissioners

Date

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to rezone the property to CU B-N.

Conditional Use Permit No. 173 – Michelle Ledbetter, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously recommended approval of this request.

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

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP #173 Date: October 2, 2000

Applicant's Name: Michelle M. Ledbetter
Address: PO Box 612
Alexis, NC 28006

Property Owner's Name: Same as above
Address: (Same as above)

Property Location: Tract #4, Hart Acres
Lincolnton, NC

Existing Zoning: R-S

Proposed Conditional Use: Single wide 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 ____
Factual Reason Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
Motioned by Commissioner Gamble. Vote: Unanimously approved.

2. The use meets all required conditions and specifications. Yes X No ____
Factual Reason Cited: The use meets all required conditions and specifications.
Motioned by Commissioner Gamble. Vote: Unanimously approved.

4. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X No ____
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
Motioned by Commissioner Gamble. Vote: Unanimously approved.

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 ____
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.
Motioned by Commissioner Gamble. Vote: Unanimously approved.

After having held a public hearing on October 2, 2000, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

A MOTION by Commissioner Gamble to approve Conditional Use Permit No. 173 – Michelle Ledbetter, applicant, with no conditions.

Vote: Unanimously approved.

Chairman
Lincoln County Board of Commissioners

Date

Zoning Map Amendment No. 345 – Harold Howard, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board voted unanimously (7-0) to approve the request.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve Zoning Map Amendment No. 345 – Harold Howard, applicant.

Zoning Map Amendment No. 346 – Harold Howard, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board voted unanimously (7-0) to approve the request.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve Zoning Map Amendment No. 346 – Harold Howard, applicant.

Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill, applicants:

Lee Lawson, Land Use Coordinator, stated that the Planning Board voted unanimously (7-0) to approve the request.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve Zoning Map Amendment No. 347 – Kelly Sherrill & La Donna Sherrill, applicants.

Zoning Text Amendment No. 348:

Lee Lawson, Land Use Coordinator, stated that the Planning Board voted unanimously (7-0) to approve the request.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve Zoning Text Amendment No. 348.

Chairman Hallman called for a five minute recess.

Chairman Hallman called the meeting back to order.

Closed Session: Chairman Hallman called for a Closed Session to discuss Personnel and Contractual matters.

UPON MOTION by Commissioner Saine, the Board voted unanimously to go into Closed Session to discuss Personnel and Contractual matters.

The Board returned to open session.

Stan Kiser, County Manager, requested that the Board create the position of Accountant II, which is a CPA, with a pay grade of 23. He also requested the Board create the position of Assistant Clerk/Secretary at a grade of 16.

UPON MOTION by Commissioner Saine, the Board voted unanimously to create the positions of Accountant II and Assistant Clerk/Secretary.

Other Business: Chairman Hallman stated that he had a call today from Rick McSwain from Soil and Water Conservation. He stated that Mr. McSwain had attended a meeting of the Catawba River Basin. He stated that a lot of different people attended this meeting, and there is some concern about an imposition of significant buffer zones on tributaries in the Catawba River Basin. He stated that he requested that Mr. McSwain continue to attend these meetings and report back to the Board as things develop, so the Board can give him input. He stated that meeting after next, he is supposed to have something prepared for the news media.

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

Amy S. Long, Clerk
Board of Commissioners

James A. Hallman, Chairman
Board of Commissioners