

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 6, 2000

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on November 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
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
Jerry Geymont

Others Present:

Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Lee Lawson, Land Use Coordinator
Kelly Atkins, Director of BALD
Shane Stewart, Zoning Administrator
Sherry Seagle, Administrative Secretary
Candace Ramseur, Development Technician
Leon Harmon, Finance Director

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

Adoption of Agenda: Chairman Hallman stated that Conditional Use Permit No. 176 is being deferred due to a technical problem, Conditional Use Permit 177 has been withdrawn by the applicant, and Zoning Map Amendment 351 there was a mistake and it will be readvertised for a later public hearing.

UPON MOTION by Commissioner Waters, the Board voted unanimously to adopt the agenda with those three items removed, Conditional Use Permit No. 176 deferred, Conditional Use Permit No. 177 withdrawn by the applicant, and Zoning Map Amendment No. 351 delayed for readvertising to correct the type zoning they want.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARINGS
NOVEMBER 6, 2000

	5:30 PM	Call to Order
1.	5:30 PM	Adoption of Agenda
2.	5:30 PM	Approval of Minutes - October 16, 2000
3.	5:30 PM	New Business / Advertised Public Hearing

Parallel Conditional Use Rezoning No. 72 – Smithstone Properties, LLC., applicant. The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 31.4 acres from Residential Single Family (R-SF) and Neighborhood Business (B-N) to Conditional Use Planned Mixed Use (CUP-MU). The applicant wishes to rezone the properties to accommodate an expansion of a major subdivision of 61 single family dwelling units. The parcels are located off of N.C. Highway 16 in the Catawba Springs Township.

Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant. The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 67.47 acres from Residential Transitional (R-T) to Conditional Use Planned Residential (CU P-R). The applicant wishes to rezone the properties to accommodate a major subdivision of 75 single family dwelling units. The parcel is located off of Asbury Church Road in the Ironton Township.

Conditional Use Permit No. 175 – Clifton Black, applicant. The applicant is requesting a Conditional Use Permit in order to accommodate a single wide mobile home in the Residential Suburban (R-S) zoning district. The 30.280 acres parcel is located at 1014 Horseshoe Lake in the Lincolnton Township.

Conditional Use Permit No. 176 – Richard Hunter, applicant. The applicant is requesting a Conditional Use Permit in order to accommodate Land Clearing Inert Debris landfill in a Residential Transitional (R-T) zoning district. The 1.86 acres parcel is located at 6437 Topaz Lane in the Ironton Township.

Conditional Use Permit No. 177 – Margo Stone, applicant.

The applicant is requesting a Conditional Use Permit in order to accommodate an Animal Kennel in a General Industrial (I-G) zoning district. The 2.426 acres parcel is located at Lot #13 of the Triangle Industrial Park in the Catawba Springs Township.

Conditional Use Permit No. 178 – William Ferrell, applicant.

The applicant is requesting a Conditional Use Permit in order to accommodate an automobile sales lot in a Neighborhood Business (B-N) zoning district. The .34 acre parcel is located at 2747 Southside Road in the Lincolnton Township.

Zoning Map Amendment No. 350 – Kenneth Tucker, applicant.

The applicant is requesting to rezone a parcel from Neighborhood Business (B-N) to Light Industrial (I-L) to accommodate light industry and assembly. The 11.484 acres parcel is located on N.C. Highway 16 in the Catawba Springs Township.

Zoning Map Amendment No. 351 – Brody Harkey, applicant. The applicant is requesting to rezone two (2) parcels from Residential Single Family (R-SF) to Neighborhood Business (B-N) to sell. The 1.5 acres parcel and the 1.389 acres parcel are located on N.C. Highway 16 in the Catawba Springs Township.

4. 6:30 PM Update on Mountain Island Lake Marine Commission – Mike McLaurin, Centralina Council of Government

5. 6:45 PM Set Public Hearing for Animal Control Ordinance Amendment for November 20, 2000 at 6:30 PM.

6. 6:50 PM Appointments to the Juvenile Crime Prevention Council
- Keith Sherrill
- Nadene Nikiel

7. 7:00 PM Discussion of Extra Christmas Holiday – Commissioner Beth Saine

8. 7:15 PM Recommendations from the Planning Board – November 6, 2000

- Parallel Conditional Use Rezoning No. 72 – Smithstone Properties, LLC, applicant.
- Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant.
- Conditional Use Permit No. 175 – Clifton Black, applicant.

- Conditional Use Permit No. 176 – Richard Hunter, applicant.
- Conditional Use Permit No. 177 – Margo Stone, applicant
- Conditional Use Permit No. 178 – William Ferrell, applicant.
- Zoning Map Amendment No. 350 – Kenneth Tucker, applicant.
- Zoning Map Amendment No. 351 – Brody Harkey, applicant.

9. 7:30 PM Public Hearing Concerning Ordinance Granting a Franchise to Charter Communications, LLC.

10. 7:45 PM Resolution Supporting Feasibility Study for N.C. 150 Corridor Between Lincolnton and Mooresville.

11. 8:00 PM Other Business

Adjourn

Approval of Minutes – October 16, 2000: Chairman Hallman stated that he has a few slight grammar corrections that he will give to the Clerk after the meeting. He stated that the time is not correct in the minutes, and should read 5:30 PM, instead of 6:00 PM.

A MOTION by Commissioner Brotherton to approve the minutes of the October 16, 2000 meeting.

VOTE: Unanimously approved.

New Business: Advertised Public Hearings: Chairman Hallman announced that this was the date, Monday, November 6, 2000 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on November 3, 2000 and October 27, 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, November 6, 2000, to consider the following zoning related matters:

PCUR #72 Smithstone Properties, LLC., applicant (Parcel ID #32188 & 30209) The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 31.4 acres from Residential Single Family (R-SF) and Neighborhood Business (B-N) to Conditional Use Planned Mixed Use (CU P-MU). The applicant wishes to rezone the properties to accommodate an expansion of a major subdivision of 61 single family dwelling units. The parcels are located off of N.C. Highway 16 in the Catawba Springs Township.

PCUR #73 Milton Keener, applicant (Parcel ID #25389; PIN#3664-03-32-0926) The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 67.47 acres from Residential Transitional (R-T) to Conditional Use Planned Residential (CU P-

R). The applicant wishes to rezone the properties to accommodate a major subdivision of 75 single family dwelling units. The parcel is located off of Asbury Church Road in the Ironton Township.

CUP #175 Clifton Black, applicant (Parcel #27854; PIN #3645-03-30-4697) The applicant is requesting a Conditional Use Permit in order to accommodate a single wide mobile home in a Residential Suburban (R-S) zoning district. The 30.280 acres parcel is located at 1014 Horseshoe Lake in the Lincolnton Township.

CUP #176 Richard Hunter, applicant (Parcel #51522; PIN #3682-00-90-4873) The applicant is requesting a Conditional Use Permit in order to accommodate a Land Clearing Inert Debris landfill in a Residential Transitional (R-T) zoning district. The 1.86 acres parcel is located at 6437 Topaz Lane in the Ironton Township.

CUP #177 Margo Stone, applicant (Parcel # 76555; PIN #4603-00-47-6303) The applicant is requesting a Conditional Use Permit in order to accommodate an Animal Kennel in a General Industrial (I-G) zoning district. The 2.426 acres parcel is located at Lot #13 of the Triangle Industrial Park in the Catawba Springs Township.

CUP #178 William Ferrell, applicant (Parcel #741; PIN #3631-03-34-4711) The applicant is requesting a Conditional Use Permit in order to accommodate an automobile sales lot in a Neighborhood Business (B-N) zoning district. The .34 acre parcel is located at 2747 Southside Road in the Lincolnton Township.

ZMA #350 Kenneth Tucker, applicant (Parcel #33813; PIN #3686-04-90-3375) The applicant is requesting to rezone a parcel from Neighborhood Business (B-N) to Light Industrial (I-L) to accommodate light industry and assembly. The 11.484 acres parcel is located on N.C. Highway 16 in the Catawba Springs Township.

ZMA #351 Brody Harkey, applicant (Parcel #31312 & 31311) The applicant is requesting to rezone two (2) parcels from Residential Single Family (R-SF) to Neighborhood Business (B-N) to sell. The 1.5 acres parcel and the 1.389 acres parcel are located on N.C. Highway 16 in the Catawba Springs Township.

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

(Please advertise twice: Friday, October 27, 2000 and Friday, November 3, 2000.)

Parallel Conditional Use Rezoning No. 72 – Smithstone, LLC., applicant: Having been sworn in, Lee Lawson, Land Use Coordinator, presented the following information concerning Parallel Conditional Use Rezoning No. 72 – Smithstone, LLC., applicant.

The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 31.4 acres to Conditional Use Planned Mixed-Use (CU P-MU) to accommodate an expansion to an existing major subdivision with 61 Single Family Dwelling units. These parcels are presently zoned Residential Single Family (R-SF) and Neighborhood Business (B-N).

The parcels are located on N.C. Highway 16 in the Catawba Springs Township. The properties are joined on the north and west sides by properties that are zoned B-N and to the south and east by P-MU. The Lincoln County Land Development Plan calls for higher residential density development in this area.

Commissioner Waters asked if the traffic projection is including these new 61 houses.

Lee Lawson stated that the traffic impact study is taking into consideration the whole entire project.

Commissioner Waters stated that maybe he's getting into the middle of this, but this is the first time he's seen that third entrance onto 16. He stated that this makes the third entrance onto 16 if you count Woodhill.

Mr. Lawson stated that the traffic impact study actually focuses in on that particular access point for the proposed street there and the only improvements it suggests there are for a left turn lane onto 16 on that particular street.

Commissioner Waters asked if it is a left turn lane onto 16. He asked if there is no left turn lane off of 16.

Mr. Lawson stated that it's a left turn lane onto 16.

Commissioner Waters stated that it sounds backwards to him.

Chairman Hallman opened the Public Hearing concerning Parallel Conditional Use Rezoning No. 72 – Smithstone, LLC., applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Parallel Conditional Use Rezoning No. 72 – Smithstone, LLC., applicant, closed.

Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Parallel Conditional Use Rezoning No.73 – Milton Keener, applicant.

The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone a 67.47 acre parcel to Conditional Use Planned Residential (CU P-R) to accommodate a major subdivision with 75 Single Family Dwelling units. This parcel is presently zoned Residential Transitional (R-T).

The parcel is located on Asbury Church Road in the Ironton Township. The property is joined on the north, south, and west sides by properties that are zoned R-T and to the east by R-SF. The Lincoln County Land Development Plan calls for lower density residential density development in this area.

Chairman Hallman stated that if the applicant did not do a conditional use rezoning like this, they could put 89 units in by right.

Lee Lawson stated that he thinks it's 90 units.

Chairman Hallman stated that actually they are cutting down around 14 or 15.

Mr. Lawson stated that that's not taking into consideration any type of flood areas or wetlands, or anything like that.

Ron Smith asked if this is in the watershed.

Mr. Lawson stated that it is not.

Commissioner Saine stated that the applicant is actually asking to upgrade the property.

Mr. Lawson stated that the development is what could be considered a lower priced neighborhood, but he's doing pretty much what would be in confines of the general zoning district he's in right now as far as a development.

Gary Garlow asked if the private water system that the applicant is proposing will be put in to county standards so if county water is out there in the future it can hook on.

Mr. Lawson stated that he didn't address that in his report, basically as far as the wells are concerned, the applicant stated that the actual tests will be run on the wells when he does the first phase of the subdivision. He stated that he will turn information then, such as a well test and how many gallons per day. He stated that he would assume that the state looks into private well systems.

Mr. Garlow asked if the County Engineer has reviewed the plans.

Mr. Lawson stated that he has.

Mr. Garlow asked if the County Engineer had any concerns about the water system.

Mr. Lawson stated that they discussed this, and the Engineer seemed to have no problem with it. He stated that he doesn't have anything in writing stating that, but they have talked on the phone about this project a couple times. He stated that the Engineer actually stated to him that he was interested in the county maybe taking over the lines.

Mr. Garlow stated that if the county is going to take them over, they ought to be put in to county standards to start with.

Chairman Hallman opened the Public Hearing on Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant.

Kimberley Watt stated that she lives very near where this planned subdivision is going to go. She stated that they have drawn up a petition that they have quite a few signatures on and are expressing their disagreement about this planned subdivision. She stated that one of their major concerns is the two planned community wells that they plan to drill. Ms. Watt stated that they are concerned that such a major demand of water in such a small area would drain the water table leaving existing wells in bad condition, maybe dry or useless. She stated that their second concern is the overcrowding of the schools and also traffic congestion that it would bring to the rural roads. Ms. Watt stated that finally they are concerned that such a congested subdivision would eliminate the wildlife that they now have in the area.

Commissioner Gamble stated that speaking about water, and we're all in a drought now, and at one of his houses the well is dry. He asked if they have done any flow studies or anything. Commissioner Gamble stated that he thinks that is a very important thing.

Ms. Watt stated that they haven't, but she has talked to the Environmental Health, here in Lincolnton, and they gave her the impression, and they did state on two occasions that she spoke with them, that it was a possibility that these could have an impact on the existing wells in the area now. She stated that they could not say definitely it would, but they could not say definitely it would not. She stated that then she talked to Scott Roach, who's supposedly the inspector over community wells for Lincoln County, and said that it was highly unlikely, but anything could happen. She stated that she's not sure who's more qualified to say whether it will or won't.

Commissioner Gamble asked Jeff Taylor as we become more and more aware of a water shortage and wells going dry, he was talking to Mr. Dysart, because of his well going dry, and Mr. Dysart said they were getting between one and two calls everyday about somebody reporting a dry well. He asked where this puts the sale of a piece of property and what position they are accountable for selling a lot when the water isn't there.

Mr. Taylor stated that it would ultimately be a matter of contract between the buyer and seller as to any problems like that. He stated that he would think that not having water available at a reasonable level on a particular piece of property would certainly impair the owner's ability to sell it.

Commissioner Gamble stated that they don't always know that.

Mr. Taylor stated that he would think that a lot of times properties are sold and owners may not necessarily be familiar with the condition.

Commissioner Gamble stated that he is not speaking for him or anybody else, but he knows that buyer beware. He stated that we're seeing this water shortage more and more

and he just thinks it needs to be said in this room, and maybe no one else agrees with him, but he thinks we ought to ask that the Zoning Board consider the problem, and this is a big development. Commissioner Gamble asked how many wells there will be.

Ms. Watt stated that there will be two community wells to supply water to the 75 homes.

Commissioner Gamble asked how deep the wells will be.

Ms. Watt stated that she has no idea.

Commissioner Gamble stated that he would not buy a lot there unless he knew how deep the wells were going to be, what some educated person had said the water reserves were, and if he was going to sell it then, and had that information, and it was good information, he would be glad to use that sales pitch. He stated that he would be embarrassed to have those questions thrown at him, if he didn't know, and this dry weather really concerns him very much. He stated that he is not trying to knock this situation at all, but thinks the County Commissioners ought to take that into consideration as they discuss these things and bring them up. He stated that he doesn't know that they ought not to be bonded someday to guarantee the availability of water, because you bought the water and availability of water when you bought your lot. He asked Mr. Taylor if he bought a lot and the water petered out if he could sue.

Mr. Taylor stated that to be honest, he didn't know the answer to that question.

Ms. Watt stated that she lives right on the back side of that property, she lives on L.R. Schronce Lane, right off of Furnace Road.

Gilbert A. Penley stated that he lives on L.R. Schronce Lane, just right up the street from the young lady that just spoke. He stated that he's concerned as well with the traffic and the water situation. He stated that his well only puts out three gallons per minute, and that's very little. He stated that he just has enough to make it. He stated that he's concerned that if they start drilling more wells, he is going to lose his water.

Commissioner Gamble asked if he has a punched well or a drilled well.

Mr. Penley stated that he believes it's drilled, it's about 270 feet deep.

Commissioner Gamble stated that that's a drilled well, and costs a lot of money.

Mr. Penley stated that he's also concerned about the traffic. He stated that he drove down the L.R. Schronce Lane this past weekend, and he knows from what he's seen in the paperwork on the zoning, that they show two entrances into that development, both from Asbury Church Road. He stated that he has noticed another road cut connected to L.R. Schronce Lane, running along the power lines. He stated that if they connect to L.R. Schronce Lane, that's a private road.

Commissioner Gamble stated that he has cattle, and is now watering his cattle out of his drilled well, every stream on his farm, and every cistern he had created to hold water is empty and is wrinkled mud in the bottom. He stated that it's a very important situation to him, and he doesn't know whether anyone else has that concern or not, but it should be a concern because we are in a drought and it's getting worse and worse. He stated that Texas had a drought for three months, then had four days of rain, and it's quit again. He stated that he thinks the Board ought to be very aware of that in our environment as they discuss these things. He asked if that comes under the zoning category at all to consider that.

Chairman Hallman stated that he doesn't think so. He stated that the only time the Board gets into that is if you're within a certain distance of county water, you have to hook to that, but if you're outside of that, he doesn't know of anything in zoning that pertains to water.

Commissioner Gamble stated that he is not complaining, he just wants to have it as an open subject to say that he has recognized it and would be worried if he was advising somebody to buy land in a large development and he didn't have but three gallons of water a minute coming from his spigot. He stated that his well only delivers seventeen gallons per minute, and he thinks he's in heaven, but that isn't anything compared to what the country club has. He stated that they have tremendous reserves in water and he thinks they are lucky, but things could change. Commissioner Gamble stated that he read in the US News last week about how the water table is coming. He stated that it's terrible what's happening in the water reserves in the Northern Hemisphere.

Mr. Penley stated that he just barely has enough water to maintain his home, and that's not counting washing cars, watering yards or flowers. He stated that he can't do any of that without running out of water.

Commissioner Brotherton stated that he has a question that there's probably not anybody in the room qualified to answer. He stated that if the gentleman could construct 90 homes on the property by right, which would have the biggest impact on the water table, 90 wells or two wells. He asked if there would be a difference.

Chairman Hallman stated that there would probably be a difference.

Commissioner Gamble stated that with two wells for 75 or 90 homes, unless they have some proven reserves, they don't know what they're selling. He stated that he thinks the Board owes it to the landowners in Lincoln County and the homebuilders to know what their water resources are. He stated that we do not risk being under the dollar up here when we're furnishing water to lots.

Chairman Hallman stated that he would imagine that if he's going to provide community wells, and that's part of selling of the lots, he's going to have to assure the homeowners that they will have water coming from those.

Myles Wright stated that he is with the Engineer on the project. He stated that if the county would run county water out to the development, they would be happy to put county water into it. He stated that as far as the well systems are concerned, the well systems have to be approved by the state and the state determines how many lots you can get off of each well, depending on how much the well yields, how much storage capacity you have at each location, he'll be required to put storage tanks at each location for storage, and also if he doesn't have enough capacity on his wells, he can't get the 75 lots. Mr. Wright stated that the wells have not been drilled yet, they have been waiting to see what would happen here before they spent any money. He stated that as far as some of the other questions about traffic impact, there was a question about connecting to L.R. Schronce Road. He stated that there is no planned connection to L.R. Schronce Road, the two planned entrances are off of Asbury Church Road. He stated that they have a traffic impact study done by Cublin Traffic Group down in Charlotte that states that there is no need for any turn lanes or anything off of Asbury Church Road. Mr. Wright stated that like Lee Lawson said, if they went by traditional zoning, they could have 90 lots and they are asking for 75 lots. He stated that they are providing 12.5% percent of the land as open space. He stated that they are providing partial sidewalks through the property with a looped walking trail/bike trail through the property. He stated that the overall density is less than what could actually be done. He stated that they are asking for 75 lots, traditionally they could probably get 90 lots on the property. He stated that there are 67 acres and they're asking for 75 lots, which is roughly .9 or so acres per lot.

Gary Garlow asked how far away the county water system is.

Mr. Wright stated that he thinks the county has water at Highway 73 and Asbury Church Road.

Mr. Garlow stated that with the approval process for the wells, if it was done anytime soon, it would be in a drought situation, so it would be fairly conservative. He asked what would happen if you are on a community water system and the wells do go dry.

Mr. Wright stated that once they know the wells are going to go dry, it won't just stop dead, the water will slowly dwindle out and they will have low pressure and everything. He stated that they would request that the county run water lines out to the property. He stated that that's about all you can do.

Commissioner Gamble stated that he hates to bore this crowd with his personal stuff, but about 25 years ago they had a drought. He stated that there's two little branches on his farm, and they built dams and kept some water in them. He stated that the spring was up at the railroad track and was dried up. He stated that one day one of the members of the Country Club came up and said "John, we just hate to come over here and tell you this, but we think our riparian rights will give us access to the water you're damming up for your cattle. Wonder if we could get you to release that water." He stated that he said he'd be glad to discuss that with them, and they walked up to see the branches. He stated that they went to the dams and went up about 15 feet and there was no water in the bank of the creek at all, and the other was dried up completely. He stated that he didn't release that water to them and they didn't ask him to. He stated that it's a big problem, he

recognizes it and has lived with it and hopes the Board and Zoning Board will establish ordinances about the availability of water standing up. He stated that he's not knocking Mr. Wright's arrangement.

Mr. Wright stated that the well system will have to be approved by the state, and it depends on how much water they get from the wells.

Commissioner Gamble stated that he's dealt with the state, and they'll tell you anything you want to hear.

Alex Moore stated that he lives at 1604 Furnace Road, which is actually the same road as Asbury Road, but the stop sign stops Furnace Road. He stated that his main concern is the schools we have, the new Pumpkin Center School. He stated that it's already in the overcrowding stage, they've already moved in a mobile unit onto the site, before they've even finished the grounds. He stated that his concern is what 75 or even 90 houses and the people living in them is going to do to our school, how much more overcrowding we're going to have, and what are we going to have to do to solve the problem. He stated that his main problem is the school.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant, closed.

Conditional Use Permit No. 175 – Clifton Black, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 175 – Clifton Black, applicant.

The applicant is requesting a Conditional Use Permit for property located at 1014 Horeshoe Lake Road 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.

The parcel is 30.28 acres and is joined on the north, east, and west by parcels that are also zoned R-S and to the south by R-SF. The Lincoln County Land Development Plan calls for moderate density residential development in this area. Single wide mobile homes require the issuance of a Conditional Use Permit in the R-S district.

Chairman Hallman opened the Public Hearing on Conditional Use Permit No. 175 – Clifton Black, applicant.

Betty Brooks stated that she lives at 966 Horseshoe Lake Road, the road that this particular mobile home is wanting to be placed on. She stated that her concern is that a few years ago, there were several mobile homes and they were asked to be removed because it was a residential area for brick homes or whatever the case may be. She stated that now they are asking that this mobile home be put there and she is totally against it. Ms. Brooks stated that she is also concerned that it will deplete their home in property value by it being put there.

Commissioner Gamble asked if Ms. Brooks is living in a stick built house, as they call it, one built with wood and brick, as opposed to a mobile home.

Ms. Brooks stated that she does. She stated that the road is made up of stick built brick houses.

Commissioner Gamble asked if they want to move a mobile home in on a road of all stick built houses.

Ms. Brooks stated that this is correct.

Otis Charles stated that he lives right behind the frame shop, 1681 Cloudburst Circle, and he would like to say the same thing as Ms. Brooks, you had people there before and made them move their trailers, even his sister tried to get a trailer moved and they told her she couldn't do it. He stated that his cousin wanted a trailer put on his lot, and he's just a couple houses down, and the answer was no.

Thelma Armstrong stated that she lives less than one-half mile away from it, and she is totally against it, because when she wanted to put a mobile home on a lot, they wouldn't let her. She stated she lives in a brick home and doesn't want her value to go down on the home she's in now.

Creola McClain stated that she lives at 1261 Springdale Park Road. She stated that according to the way they are going to put this trailer, it will be close to her home. She stated that they have got the neighborhood in good condition, they had a lot of drug traffic through the neighborhood, and have now got it situated. She stated that if he put one trailer, he'd probably continue to put trailers in there, and she does not want it.

Sylvester Charles stated that he just came for support on not letting the trailer come in, because he tried to put one there years ago, and they denied him. He stated that if he has a good reason, then he would like to know why he's able to put it there and he was not to put it there, since he is a citizen of Lincoln County.

Agnes Charles stated that she lives at 976 Horseshoe Lake Road. She stated that with the shooting that goes on, she does not appreciate it, with the dogs running loose, they can't walk the street for the dogs from the Black's Frame Shop. She stated that there's no people of color employed there. She stated that it's just a quiet neighborhood now, with the church being there, with mobile homes being there, she doesn't think it would be a good deal. Ms. Charles stated that if you call the Sheriff they won't come out and stop the shooting, if you call the dog catcher, they can't come out and stop the dogs from messing in your yard and pulling your trash out and it's coming from Black's Frame Shop. She stated that they are not good neighbors. She stated that Mr. McAlister was a very good neighbor, Jack McAlister and his wife are very good neighbors, but these are not good neighbors and she does not want the trailer there.

Geneva Black stated that they are the ones that want to put the trailer there. She stated that it's not their trailer, it was James' uncles and he's 88 years old, and he needs to be close to someone at his age. She stated that he wanted to be there as long as he lived. Ms. Black stated that he's an old man and she's sure he's not going to get out and bother anybody, but there are trailers on the other road that joins them. She stated that there are four and one that no one lives in, so there are five up there, and they can see them from their home. She stated that they are getting old themselves, and they bought this several years ago, hoping that when they needed help and someone to look after them, maybe their children could put a trailer next to them. She stated that if they have ever bothered anybody or their dogs have bothered anybody, they've not had any complaints. Ms. Black stated that nobody has told them. She stated that she did have the dogs tied or fenced in, but nobody has said anything about it, but she can fix them back up if they are bothering anybody. She stated that she didn't move there to cause trouble, they never had any trouble where they were before.

Chairman Hallman asked Ms. Black if when she put the application if anyone mentioned Accessory Care Provider as an option.

Ms. Black stated that she didn't think so.

Chairman Hallman asked if this person is a relative.

Ms. Black said yes.

Chairman Hallman asked Mr. Lawson if this would qualify for accessory care provider.

Mr. Lawson stated that it would.

Chairman Hallman stated that it could now be handled administratively.

Mr. Lawson stated that they would need a letter from a doctor saying that this person needed some type of care.

Ms. Black stated that right now he's been able to look after himself. She stated that he's 88 years old and wanted to get this put down there.

Chairman Hallman stated that at 88 years old, the doctor would probably have a statement that would be suitable, because not many people at 88 years old are totally capable of handling every need they have.

Commissioner Gamble stated that he would certainly give him one.

Chairman Hallman stated that the only problem is that if they would move a mobile home in and he would happen to pass away, the mobile home would have to be moved off the property.

Ms. Black stated that it would be moved.

Commissioner Waters stated that he assumes they already own the mobile home, because there's another option, too. He stated that if they would put Class A on there, there would be no question.

Chairman Hallman stated that he already owns the mobile home.

Ms. Black stated that they own the property and he owns the singlewide. She stated that when he went and asked about putting it there, they didn't tell him that.

Commissioner Brotherton asked if he is purchasing a new mobile home or if it is an existing home.

Ms. Black stated that she doesn't know how new it is, but he's a person that wouldn't have something that didn't look real good.

Commissioner Waters asked if he already owns the mobile home.

Ms. Black stated that they don't, but he does.

Commissioner Gamble asked where it is at now.

Ms. Black stated that it's way up in the west end next to one of those peach orchards, but she can't call the name.

Commissioner Gamble asked if he is living in it now and wants to move the house to that location and live in it there.

Ms. Black stated that this is correct.

Commissioner Gamble stated that getting old is the dickens.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Conditional Use Permit No. 175 – Clifton Black, applicant, closed.

Conditional Use Permit No. 178 – William Ferrell, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 178 – William Ferrell, applicant.

The applicant is requesting a Conditional Use Permit in order to accommodate an automobile sales lot. The property is located in a Neighborhood Business (B-N) zoning district.

The .34 acre parcel is located at 2747 Southside Road in the Lincolnton Township. The property is joined to the west, east, and north by parcels that are zoned R-SF and to the south by R-T zoned parcels. The Lincoln County Land Development Plan calls for

moderate residential density in this area. An automobile sales lot requires the issuance of a Conditional Use Permit in the B-N district.

Ron Smith stated that the application states that it is an automotive repair and sales. He asked if it is an actual auto sales request.

Mr. Lawson stated that that was his understanding when he filed the application.

Chairman Hallman opened the Public Hearing on Conditional Use Permit No. 178 – William Ferrell, applicant.

John Burick, an attorney from Charlotte with James, McRoy, and Deal, stated that he doesn't really quite know why he is here, except for the fact that he was told there were a lot of questions last time by what Mr. Ferrell was attempting and he understands there was some confusion about whether or not last time the application was some sort of Parallel Conditional Use or if it was a Conditional Use Permit. He stated that he went to great lengths to listen to the tape of the hearing, so he could understand what some of the concerns were, and as he understood it, there were two or three, one being whether or not there will be work on Sundays, which would interfere with the services across the street at the church and whether or not there will be some sort of chemical spray that would be used that would float over to a daycare or a teaching facility for the kids during the day. He stated that he doesn't know if those were the concerns or if there was a misunderstanding about what the application was, but he wanted to show up so he could address those as best as he could. He stated that his understanding of what happened was that there was some sort of change of occupancy form that was completed and the gentleman who came out to inspect the facility on behalf of the county filled out the form. Mr. Burick stated that at one time the facility was a fire station, he doesn't know how long ago it stopped being used for that purpose, but it was a fire station at one point, obviously had a three bay garage, and a fourth bay behind to do some service work on the actual fire trucks. He stated that when the change of occupancy form was filled out, it showed that it was going to similarly be a garage again, some repair work was done, and based on the inspector's statements to Mr. Ferrell that the facility could be zoned for what he intended it for, which was to sell automobiles and also service the automobiles he sold, he expended a great deal of money to upfit the property, clean up the bays, put in some new hydraulic lifts, and those types of things. Mr. Burick stated that it wasn't until later that he got a letter from the Zoning Administrator that said that that certificate was issued in error and that he had to go through the formal process of seeking some sort of conditional use. He stated that he thinks section 10 of the ordinance says it can be utilized for the sale of automobiles, boats, mobile homes, and those types of things, so it is one of the anticipated and contemplated conditional uses and they are just asking that the permit be granted for that purpose alone. He stated that he thinks at one time the applicant wanted to service outside automobiles that he didn't sell, and since that was met with some opposition, and he's invested a great deal of funds in this as it is, he would at least like to let it be utilized for what he would consider a second tier use, which would be just to sell the automobiles that he wants to sell and then service those automobiles as is needed.

Commissioner Gamble stated that he doesn't claim to be a know-it-all, but as he recalls it, the issue here was the adjacent noise and the spillage of volatile petroleum products, and the odors, and things like that, and as he recalls it, that was the main thing that was emphasized, was the noise next door to the church, and the availability of petroleum products and the odors and the oils. He asked to be straightened out on this.

Mr. Burick stated that if you are going to try and compare the noise of a fire station to the noise of a car dealership, he doesn't know that the dealership is going to be any noisier than the alarm going off on a fire truck.

Commissioner Gamble stated that nor does he, he just wanted to know what Mr. Burick says.

Mr. Burick stated that he doesn't think there's going to be any noise violations, it's not going to be operated on Sundays when the services are ongoing, so that's not going to be a problem.

Commissioner Gamble stated that the church was the one that objected.

Mr. Burick stated that this is correct, and he thinks a lot of the people that objected don't have standing to object, although they attend the church, they are not members of the community, they are not adjacent members, they are not people that would actually be affected by this, because while they are attending services, this facility is not even going to be in operation.

Chairman Hallman asked if early on there wasn't an issue of conducting a construction business, with heavy equipment and trucks and all this kind of stuff on the facility.

Mr. Burick stated that at point and time there was a concern, Mr. Ferrell, who's with him this evening is also the president of WBF Contracting, and he was out there trying to erect some fences and do some other types of work, and had one of his trucks parked there. He stated that he does not believe that the intent is that this facility be utilized to house his trucks, if he's got a lift there and something needs to have the oil changed, he wouldn't want to say that this would never happen, but he doesn't think the intent is that this facility be utilized to service his vehicles. He stated that Mr. Ferrell is also a sports enthusiast, a car buff, and so he does have some of his own personal vehicles, one of which is being stored in one of the bays now. He stated that again, that is not the intent for the use, he is just trying to do something with it while he's purchased it. Mr. Burick stated that part of what makes this a little bit problematic for him is that this wasn't a concern as far as he knew when he bought the property, and he bought it with the intention of turning it into what he is petitioning this Board to allow him to do, and has expended a great deal of funds. He stated that Mr. Ferrell had hired one gentleman to be a mechanic that he's had to let go, so they see some urgency to getting this resolved, but at the same time want to appease the Board, as well as the other board members in the community at large, that this is not going to be a facility that's going to be utilized to traffic in and out a lot of cars, it's going to be primarily a sales area, and on occasion

when you buy a car that needs to be repaired, they'll be a couple days there to do oil changes, brake changes, tire rotations, and that type of thing.

Gary Garlow stated that he is still confused on the intended use of the place.

Mr. Burick stated that he thinks he may have confused Mr. Garlow, because the way he understood the original hearing that was held last month, there was some ambiguity as to what the hearing was about. He stated that Mr. Ferrell had intended, when he purchased the property to utilize the facility both to sell automobiles, to service the sold automobiles, and also to service outside automobiles, and that became such an objected to issue that he has withdrawn the request right now to service outside automobiles, in other words, if you're just driving down the street and want to get you car service you can't, but if you'd purchased your vehicle from that facility, you'd be able to bring it in for service. Mr. Burick stated that if the Board is willing to grant him further use, they would certainly not complain about that, but right now all they are here for is that, so he can make some money on the property and use it for it's purpose.

Commissioner Saine stated that on the application she has before her, it says in parenthesis that he plans to build a couple cars periodically, restore and resell those. She stated that if she remembers correctly there were some complaints or concerns about painting, the fumes and chemicals going over into the nursery area, and those kids are there everyday. She stated that she thinks that was one of their greater concerns and it is on this application as well.

Mr. Burick stated that he understands and on Mr. Ferrell's behalf, he can tell the Board that there will not be any painting going on there, there was originally, at one point and time, a contemplation of making a paint bay out of the fourth bay, that's in the back, but that's been withdrawn, and the service is going to be limited just to mechanical type services, nothing more, no chemicals, and none of that. He stated that for those that were concerned, Mr. Ferrell has a high pressure hydraulic sprayer that he utilizes to clean his automobiles, but that connects only to the spigot, it's just water, there's nothing else in it. He stated that to the extent that there's nothing else in it, so to the extent that there's some overspray of that machine, he believes there has been testing done and it doesn't even go past the center of the road, but if it should, it's only water, it's nothing else. Mr. Burick stated that there wouldn't be any kind of painting or any kind of chemical cleaning that would be occurring there.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Conditional Use Permit No. 178 – William Ferrell, applicant, closed.

Zoning Map Amendment No. 350 – Kenneth Tucker: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 350 – Kenneth Tucker, applicant.

The applicant is requesting to rezone a parcel, owned by Mr. Roger Jones, from Neighborhood Business (B-N) with a Designated Highway overlay district (D-H) to

Light Industrial (I-L) with a D-H. The applicant wishes to rezone these properties in order to accommodate assembly businesses.

The 11.48 acres parcel is located on North Carolina Highway 16 in the Catawba Springs Township. The parcel is joined on all property lines by properties that are zoned B-N. The Lincoln County Land Development Plan calls for moderate residential density development in this area.

Chairman Hallman opened the Public Hearing on Zoning Map Amendment No. 350 – Kenneth Tucker, applicant.

Gerard Cannito stated that he is the CPA that owns the professional building on the corner of Grassy Creek and 16. He stated that his main concern is basically traffic and entrance and exit ways onto 16. He stated that as it exists right now, his property ends up being a cross-through for anybody that doesn't want to go up to the corner and they've had numerous car accidents and whatnot. He stated that he's had utility trucks break down in there and cause damage to his property on the driveway, and he's concerned about the proposed project or whatever that has where the entrances and exits are going to be, if it will a straight-shot right across his property to bypass going up to the corner. He stated that it's only about 100 yards from the bend in the road there, and light industrial, light assembly, he doesn't know whether we're talking Wireway Husky or Denver Industrial Park. He stated that you're talking about tractor trailers coming out within about 100 yards of a semi-blind curve, coming around there, and he doesn't know what the proposed use for the property is, or where the entrances and exits are going to be. He stated that at 45 miles per hour going through there, on a curve, light assembly/industrial, he presumes would be some considerable heavy tractor trailers coming through there, what effect that would have, and what that would do to traffic not wanting to go up to the corner.

Chairman Hallman asked where Mr. Cannito's property is in relation to the applicant's property.

Commissioner Brotherton stated that Mr. Cannito's property is at the corner of Grassy Creek and 16.

Commissioner Gamble asked Mr. Cannito to give him a better understanding of where he is. He stated that he understands he is in eastern Lincoln County

Mr. Cannito stated that it's on Highway 16 about a mile south of 150 on Highway 16.

Commissioner Gamble asked if this is near Killian's Crossroads.

Commissioner Brotherton stated that it's about a mile south of Killian's Crossroads on 16.

Mr. Cannito stated that it's at the corner of Highway 16 and Grassy Creek.

Commissioner Gamble asked Mr. Cannito how long he had been in business there.

Mr. Cannito stated that he just finished up 8 years.

Commissioner Gamble asked Mr. Cannito how much he thinks this damages his business.

Mr. Cannito stated that right now he has a problem, he has trouble with utility trucks, he has trouble with traffic everyday going through, he has the liability issues of everybody cutting across his property, because he has entrances on Grassy Creek, as well as Highway 16 and anybody not wanting to come up to the corner to make their turns deems it free passageway through the property to cut across. Mr. Cannito stated that he does not know if there are proposed entrances directly across from his existing entrance on Highway 16 now. He stated that this would just make it carblanch for trucks, utility vehicles, and whatnot just to come right out there, and anybody wanting to go to 150 East could go up Grassy Creek Road and just cut right across, heading up to 150.

Commissioner Gamble asked what the traffic count is in this area.

Mr. Cannito stated that he is not familiar with that, he doesn't know.

Commissioner Gamble asked if it is six or eight thousand per day. He stated that he's heard it's as high as 11,000 per day.

Mr. Cannito stated that he's only about a mile away from Wireway.

Commissioner Gamble asked Commissioner Brotherton to tell what the traffic counts are on 16.

Commissioner Brotherton stated that it seems like he's heard that down at 16 and 73 it's upwards of 20,000, but he's not sure what they are in this area.

Gary Garlow stated that he's hearing two concerns, one of which is the driveway, which is a current problem and not necessarily related to the proposed rezoning. He stated that one solution for the driveways is to close one of them. He asked Mr. Cannito to talk about his concern about the use of the property.

Mr. Cannito stated that he doesn't know what is anticipated, he doesn't know what light assembly can involve. He asked if it could involve something as large as Wireway, because it's an 11 acre piece of land, or if it is the 100 foot or 50 foot industrial buildings that are down in the Denver Industrial Park. He stated that in either case, you're still talking about big tractor trailers coming in and out of there, less than 100 yards from a curve going 45 miles per hour. He stated that he can get the traffic records, and there's an accident at that corner at least once per month as it exists now.

Commissioner Brotherton stated that he can remember seeing on roads industrial entrance signs, where the traffic speed limit is reduced. He asked if the state still does this.

Commissioner Gamble stated that the trick is to get enforcement.

Mr. Cannito stated that coming out of Denver north on Highway 16, once you get out of the small business area, it's 35 and then it proceeds up to 45 miles an hour, and then you come around that curve.

Commissioner Gamble asked Mr. Cannito what he envisioned that would help him.

Mr. Cannito stated that at the least not having an entrance and exit directly opposite his existing entrances and exits so that it would not be a straight run coming out of there and going straight across.

Commissioner Gamble asked if the Planning Board has any jurisdiction over Mr. Cannito's property like that.

Commissioner Waters stated that he's talking about the property that is up for rezoning.

Chairman Hallman stated that if this is not a conditional use, but just a straight rezoning, the Board can't tell him where to put his entrance.

Commissioner Brotherton stated that it's zoned Business Neighborhood right now, which the applicant by right could put a convenience site there. He stated that that's a traffic nightmare, and what he's proposing would create less traffic problems than what he could do by right there.

Mr. Cannito stated that he doesn't know what the applicant is proposing. He asked if there is someone who can clarify that for him.

John Yoder stated that he lives adjacent to the land they are talking about. He stated that he also has some of the same concerns that the fellow that just spoke had, although he doesn't have a problem with anybody going across his driveway. He asked if there is an ordinance with noise in that area.

Chairman Hallman stated that there is a countywide noise ordinance.

Mr. Yoder asked if this proposal lets the guy put in race shops.

Lee Lawson stated that it's any manufacturing or light assembly.

Mr. Yoder asked what light assembly is.

Commissioner Waters read the permitted uses for Mr. Yoder.

Mr. Yoder stated that a lot of the problems that he has would be solved if the ordinance that would cover the noise was enforced, he thinks it would be perfectly alright. He stated that as the fellow that spoke before him, the trucks that come around that turn

there, if anybody's familiar with trucking, they have engine brakes. He stated that if you have to use an engine brake on a truck going 45 miles per hour, there's something wrong. He stated that they are going a lot faster than 45 miles per hour and that's all he hears all day long is engine brakes going. He stated that across the holler from him is the race shop and they run them up and down the street, the motorcycle shop runs the motorcycles up and down the street trying them out, and it's just too much noise. He stated that if the ordinance was enforced it would be fine.

Kenneth Tucker stated that he is a builder in Denver, and he does build some race shops from time to time, but usually they are for the Nascar guys and they don't run their cars up and down the roads. He stated that they have asked to be rezoned because of the limit on the building, he believes 25,000 square feet is the largest building you can put in neighborhood business. Mr. Tucker stated that the ideal situation would be to have 2 buyers, and have 2 sites there. He stated that as Commissioner Brotherton mentioned, the answer to the one gentleman's question about traffic coming across the road onto his parking lot, by right you could put enough retail shops there that traffic would be a lot more of a nightmare than it would be in this industrial park. He stated that he can't control the speed, he can't control if they go across onto this gentleman's property, he'll have to call the law on that, there's nothing he can do about it, whether they go by right and do what they can or whether they get the rezoning. Mr. Tucker stated that there is some industrial property to the south and the north, in 1/8 of a mile either direction. He stated that he owns one piece of property and he doesn't know who owns it to the north, but there is that type of property real close. He stated that he doesn't believe his office is allowed in neighborhood business. He stated that they will keep the lot sizes larger because there is not sewer there. Mr. Tucker stated that he's going to get with EDA and try to see about getting a larger business to come in there.

Commissioner Brotherton asked how much frontage Mr. Tucker has on 16.

Mr. Tucker stated that this was a little bit of a dispute, and he's not sure now, because it's changed. He stated that it is supposed to be about 900 feet, there is an old deed, and it may be 40 or 50 feet less.

Commissioner Brotherton stated that he could basically put 9 retail businesses in there and really create some traffic.

Mr. Tucker stated that they could also put some in the back. He stated that by right, they could still have a lot more traffic than what he thinks they will have with this. He stated that with the Noise Ordinance, he can't say, but his business does not make a lot of noise, but even as a developer he won't be able to tell somebody to be quiet. He stated that it will be up to the Sheriff's Department or whoever. Mr. Tucker stated that he is going to restrict that any buildings on the front be at least 80% masonry or stucco, not metal fronts, other than maybe a façade at the top, but most will be masonry.

Commissioner Gamble asked what this gentleman has applied for.

Mr. Tucker stated that he has applied for rezoning from neighborhood business to light industrial. He stated that instead of going industrial, they asked for light industrial.

Commissioner Gamble asked if Mr. Tucker is going to enlarge his building to take care of that.

Mr. Tucker stated that he is going to sell this property.

Lee Lawrence stated that he drives a truck, and traffic is bad enough right through that particular area as it is. He stated that it will make it a good bit worse with trucks trying to come in and out in that one particular area, in that semi-blind curve. He stated that as far as the jake-brakes on the engine, that's to save wear and tear on brake systems on trucks, wear and tear on all kinds of major parts on these big trucks. He stated that he feels like there is going to be a major problem there as far as traffic goes.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Map Amendment No. 350 – Kenneth Tucker, applicant, closed.

Chairman Hallman announced that at this time, the Planning Board will retreat to the 2nd floor balcony.

Chairman Hallman called for a short recess.

Chairman Hallman called the meeting back to order.

Update on Mountain Island Lake Marine Commission – Mike McLaurin,

Centralina Council of Government: Mike McLaurin stated that it's great to be back in Lincoln County. He stated that the Marine Commission met here last week, the Marine Commission meets here every third month, and appreciates the opportunity to meet in the fine facilities here. He stated that it seems like it was a couple years ago that he came before the Board asking for a resolution of support to help create the Mountain Island Lake Marine Commission, which would create a link, where we have the Wylie Commission on the southern Catawba lakes, and Lake Norman on the northern part of the lake, and this created the middle. He stated that he would like to give the Board a progress report as to where they are. Mr. McLaurin stated that as the Board recalls, the Mountain Island Marine Commission was created with a partnership between Lincoln County, Mecklenburg County, and Gaston County. He stated that there was some enabling legislation that passed the General Assembly, and a joint resolution. He stated that Marine Commissions are units of local governments, and what that means is that much like a county, their meetings are public, their budgets are public, and they have to operate in the public light. Mr. McLaurin stated that they have jurisdiction up to 1000 feet beyond the high water mark and their prevue is to work to address safety and environmental issues on Mountain Island Lake. He stated that if the Board will recall, because of the unique situation of Mountain Island Lake, Lincoln County has 4% of the shoreline and 1 representative, Mecklenburg and Gaston each have roughly 45% to 48% of the shoreline and have 3 representatives. He stated that Lincoln County's representative is Stanley Roseboro. He stated that one of the things any county board is concerned with, whether it's Mecklenburg, Gaston, or Lincoln, is the diversity of the

board. He stated that he would like to give the Board some information on this. Mr. McLaurin stated that he has been the Executive Director of Marine Commissions for 11 years, starting with Lake Wylie in 1989. He stated that over that time, about 50% of the commissioners live on the lake and 50% do not live on the lake. He stated that he gets good commissioners from both, so it's not important to live on the lake to be a good commissioners. Mr. McLaurin stated that the Marine Commissioners serve without pay, and some commissioners are volunteering 15 to 20 hours per week on Marine Commission business. He stated that in the case of the Mountain Island Lake, there is one African American, one white female, and five white males who are commissioners, and at least four of the seven grew up in the area. He stated that three of the Mountain Island Lake Marine Commissioners either live on Mountain Island Lake or are in the process of buying or building homes on Mountain Island Lake. One of the marine commissioners lives on Lake Wylie. Mr. McLaurin stated that the commissioners come from a variety of backgrounds and levels of community participation, for example there are two elected officials and one former elected official. He stated that four of the seven have never held an elective office, and two of the seven have never been part of the public body process. He stated that he has commissioners who own their own business and some that work in industry. He stated that levels of community participation by the marine commissioners include a former Mecklenburg County Parks and Recreation Commissioner, former member of the Mountain Island Lake Stakeholders Group, which wrote buffer rules for Mountain Island Lake, the former Chair of the Gaston County Quality of Natural Resources (QNRC), former Lake Wylie Marine Commissioner, former member of the Catawba River Foundation, Board member of the East Lincoln Betterment Committee, Planning Board member, and Steering Committee of the Catawba River Corridor Study. He stated that since 1998, the Marine Commission has accomplished:

- Working with county governments, The Trust for Public Land, Catawba Land Conservation Network, Centralina COG and others to identify shoreline and streams which should be protected;
- Working with Gaston County to approve 100 foot buffers;
- Working with Mount Holly, Belmont, and Gaston County supporting local erosion control programs;
- Meeting with neighborhood groups to discuss environmental and safety issues on Mountain Island Lake;
- Participating in Big Sweep;
- Working with developers on Mountain Island Lake to implement strong water quality methods;
- Serving on a state committee to study the implementation of buffers throughout the Catawba River;
- Serving on a Mecklenburg County committee to revise the Sedimentation Ordinance;
- Participating in the update of Duke's Shoreline Management Plan;
- Approving a No-Wake zone to protect environmentally sensitive Duck Cove;
- Patrolling new developing neighborhoods to identify violations of local sedimentation regulations;

- Working with Mecklenburg County Environmental Protection Department and developers to identify and correct any problem areas which may exist in new developments;
- Partnering with law enforcement agencies to increase Lake Patrols;
- Approving no-wake zoned on other areas of the Lake;
- Approving new safety regulations for the Lake which establishes operator age and educational requirements to operate a vessel on the Lake;
- Partnering with the N.C. Department of Transportation, the Charlotte-Mecklenburg Police and a private landowner to address littering and trespassing on the Lake;
- Partnering with the N.C. Department of Transportation to implement No-Wake Zone signage on Highway 16 Bridge;

Mr. McLaurin thanked the Board for the support given to the Marine Commission, for appointing Mr. Roseboro to represent the Marine Commission, and for letting them meet in this facility.

Commissioner Waters asked what Mr. McLaurin said about age requirements to operate a boat on Mountain Island.

Mike McLaurin stated that he would have to send the Board the latest regulations, but to operate a personal watercraft or a jet ski on Mountain Island Lake, if you are between the ages of 12 and 16, you have to show proof you've had a safety course, and a motorboat if you are between the ages of 13 and 18. He stated that after they passed those regulations and held three public hearings, one of which was in this county, they started working with Lake Wylie, because their regulations were a little different, and they are in the process now of trying to make consistent regulations. He stated that he will send the Board the current regulations.

Commissioner Waters asked why they are talking about one on Lake Norman that takes in everybody.

Mr. McLaurin stated that he does not know how they came up with what they did.

Commissioner Waters asked if Mr. McLaurin is connected to Lake Wylie but not Lake Norman.

Mr. McLaurin stated that Lake Norman is administered by Benchmark, Incorporated. He stated that they used to administer it for many years, but quit administering it maybe two years ago.

Commissioner Gamble asked who made that decision.

Mr. McLaurin stated that the Lake Norman Marine Commission did.

Commissioner Gamble asked what the Lake Norman Marine Commission pays for the way they do it now.

Mr. McLaurin stated that he does not know that answer. He stated that they have recently gotten a new Executive Director, Ron Smith who used to administer it for Benchmark is now working with Iredell County, and the new Administrator is Sam Meisinhimer.

Commissioner Gamble asked Mr. McLaurin to write him a letter concerning the relative cost between Council of Governments administering Lake Norman and the new firm they have hired to do it.

Mr. McLaurin stated that he will provide what information he can.

Commissioner Waters asked if he is correct in saying that Centralina Council of Government oversees Lake Wylie and Mountain Island Lake, but not Lake Norman.

Mr. McLaurin stated that this is correct, they did Lake Norman for many years, and for whatever reason they decided to go with another firm.

Chairman Hallman stated that he would like to say that the Board appreciates Mr. McLaurin giving them a run-down. He stated that it's been quite some time since the Board has had any information out of Lake Norman Marine Commission, and the Board appreciates Mr. McLaurin's willingness to come and keep the Board informed of what's going on at Mountain Island.

Mr. McLaurin stated that he thinks it's a responsibility that the Commissions have. He stated that he will be in Mecklenburg County on Wednesday night talking about Lake Wylie.

Commissioner Gamble asked if anyone has ever asked the difference in the financial situation between them doing it and Benchcraft doing it.

Mr. McLaurin stated that he doesn't think he has ever been asked that question directly. He stated that when COG was administering the Lake Norman Marine Commission, Hilda Threatt administered it for a number of years and then Anthony Roberts administered it, so he was never involved in their day to day operations. He stated that Wylie and Mountain Island are having joint Marine Commission meetings quarterly to try to identify issues of common interest and work together, and some may agree to disagree on and not work on.

Set Public Hearing for Animal Control Ordinance Amendment for November 20, 2000 at 6:30 PM: Chairman Hallman stated that the next item on the agenda is to set a public hearing for the proposed Animal Control Ordinance Amendment for November 20, 2000 at 6:30 PM.

Commissioner Waters asked if Chairman Hallman can tell him what this is.

Stan Kiser stated that it's an amendment to change the fee schedule.

Jeff Taylor stated that Bill Beam sent him a one page proposed amendment and he thinks there is some language in the current ordinance that sets a fee that they want to increase, because some of the state regulations are changing on spaying and neutering animals, and they want to change the proposal so it would be in accordance with a fee schedule to be set every year by the Board in the budget process.

Commissioner Waters asked why the Board doesn't have a copy. He asked if he is correct in saying the Board is going to have to make the change.

Jeff Taylor stated that the only proposal before the Board tonight is to set a public hearing.

Commissioner Waters asked if the Board will get to see it before the public hearing.

Jeff Taylor stated that it should be in the Board packets.

Commissioner Waters stated that he will see it two days before they have to do something with it. He asked why he wouldn't have it if Mr. Taylor does. He stated that he hates to get mean about it, but it doesn't make sense.

Mr. Kiser stated that he can have the Board copies of it tonight. He stated that he just now got a copy of the current Ordinance.

Commissioner Waters asked Mr. Kiser if he understands that he might have a problem with setting a hearing for something that Mr. Kiser hasn't bothered showing him.

Mr. Kiser stated that just because we set the hearing doesn't mean that Commissioner Waters would have to vote for it on that night.

Commissioner Waters stated that "we" is a bad thing in there. He asked who "we" is.

Mr. Kiser stated that just because the Board sets the public hearing, doesn't mean that Commissioner Waters would have to vote for it that night.

Commissioner Waters asked who put this on the agenda.

Mr. Kiser stated that he did.

Commissioner Waters stated that Mr. Kiser should have given the Board a copy of it, because his packet was blank again. He stated that they've gone through this and gone through it, but it never improves.

Mr. Kiser stated that he just got a copy of what he needs to give the Board today.

Commissioner Saine stated that this is only to set a date for the Public Hearing.

Commissioner Waters stated that he would like to see the information before the Board has the hearing. He stated that he is tired of getting surprises.

Commissioner Waters stated that he doesn't see anything unreasonable about his request. He stated that if they are going to set a hearing, he doesn't see why he can't have a copy here. He stated that this wouldn't be the first time somebody dropped it on his desk tonight.

Chairman Hallman stated that if it makes Commissioner Waters feel good, he doesn't have a copy either, but he's not upset. Chairman Hallman asked Mr. Kiser to go make copies of the ordinance.

Appointments to the Juvenile Crime Prevention Council: Chairman Hallman stated that the recommendations for appointments came from the Chairman of the Juvenile Crime Prevention Council. He stated that he doesn't know John McKey.

Commissioner Waters stated that he knows John McKey, he's on the Gaston Lincoln Mental Health Board, which he serves on.

A MOTION by Commissioner Saine to approve the recommendations of John McKey and appoint Keith Sherrill and Nadene Nikiel to the Juvenile Crime Prevention Council.

Commissioner Gamble asked if there is anything wrong with the protocol of having these names and what they're recommended for come to the Board a month before they take action. He stated that this is not a reflection on Ms. Saine, but he just thinks if he were voting for a \$100,000,000 Director and didn't get his name until the night he was going to vote on it, he would feel uncomfortable about it.

Chairman Hallman stated that this may be one of the mandated positions that comes through the state. He stated that the secretary from the JCPC says they need this approved because their next meeting is November 16.

Commissioner Gamble moved to approve the person, and made another motion that the Board doesn't approve anybody until they have heard of them by name and position until a month before they would be approved.

Chairman Hallman stated that Commissioner Saine has already made the motion. Chairman Hallman called for a vote on Commissioner Saine's motion.

VOTE: Unanimously approved.

Discussion of Extra Christmas Holiday – Commissioner Beth Saine: Commissioner Saine stated that at the first meeting last month the Board considered the holiday schedule for employees and over the past two years, the Commissioners have allowed employees three days for their vacation. She stated that in 2001, the Board has already approved the 24th and 25th, which is Monday and Tuesday

Chairman Hallman stated that there's three days next year, Monday, Tuesday, and Wednesday. He stated that the one that is in question is this year.

Commissioner Saine stated that since there is very little activity, especially at the early part of the week and in and around the holiday time in our county offices, she would like to make a motion or recommendation to extend the Christmas holiday to the day before and the day after, which would be the 24th, 25th, and 26th.

Commissioner Waters stated that that wouldn't work either, because that gets into a weekend.

Commissioner Brotherton asked what day Christmas is on.

Commissioner Waters stated that it's on Monday. He stated that this year, 2000, the Board passed last year to have the holidays be the 25th and 26th, which happens to be Monday and Tuesday.

Chairman Hallman stated that the appropriate thing would probably be to add the 27th, which would make it consistent with previous years having three days off, and next year, which has already got three days off.

Commissioner Waters asked if the Board remembers Stan's comment while they are doing this, we have to open the courthouse, because it doesn't coincide with the state. He stated that he thought this was settled at the last meeting. He stated that the Board went through this at the last meeting.

Chairman Hallman stated that the Board batted it around. He stated that they may have to open the courthouse for court reasons, and anybody would get an extra day off at some point in time if they would have to work.

Commissioner Brotherton asked how it works with the people that work at the convenience sites, because they don't work but twenty hours per week. He asked if the guy working the first part of the week gets paid vacation time and the guy working the last part of the week would get nothing.

Commissioner Waters stated that if the Board gives Wednesday, it wouldn't matter to the convenience sites anyway.

Chairman Hallman asked Mr. Kiser if the Board gives Wednesday, December 27 as another holiday what problems that would cause with the courthouse.

Mr. Kiser stated that he is not sure what days the state is off for 2000.

Chairman Hallman stated that assuming they are working on Wednesday, and the Board gives a third day again, what complications would arise.

Mr. Kiser stated that someone would have to come in and open the facility. He stated that he doesn't know that there will be any janitorial services that day, but someone would probably have to come in and make sure the heat is on and that type of thing.

Chairman Hallman asked if that person had to come in, if they could take another day off.

Mr. Kiser stated that they could, or they could receive time and a half.

Commissioner Brotherton asked if the Clerk of Court and Register of Deeds would be affected.

Mr. Kiser stated that the Courts will be open also.

Commissioner Brotherton asked if the Register of Deeds would be required to be open.

Mr. Kiser stated that he is not sure. He asked Elaine Harmon if their holidays are on state or county.

Elaine Harmon stated that they are on county holidays.

Chairman Hallman stated that anybody who would have to work to satisfy the court system could either get time and a half or could take another day off at their request.

Mr. Kiser stated that he seems to recall an instance like that before where someone just came in and made sure it was opened up. He asked Elaine Harmon if she knew how many days the state gets for Christmas.

Elaine Harmon stated that she believes they only get two days for Christmas this year.

Commissioner Waters stated that he assumes that is how the Board decided to do it on their calendar, was to follow the State, just like for 2001. He stated that there has to be some way of deciding this. He asked if anybody knew how it was decided it was going to be two days a year ago.

Commissioner Gamble asked if anybody came to the courthouse on those days, if there would be any reason they would expect any less than full service. He asked if he could go up there and have made a dry run if the courthouse was officially open.

Chairman Hallman stated that one the 26th, the day after Christmas, if someone made the assumption that everything was open, and it wasn't open, you'd make a dry run that day.

Commissioner Gamble asked if it would be posted on the door of the courthouse if someone should go there. He stated that people come to see granny at Christmas for a couple days from Michigan, and hope to get a deed worked out. He stated that he had to go up there on a holiday and it was open, and got his work done, but would hate to have been turned down if he was from Atlanta or Birmingham. He stated that it's like going to a filling station, wanting your oil changed, and not being able to get it changed.

Commissioner Saine stated that there are departments that have to stay open regardless, and she guesses they have to rotate their schedules within their department.

A MOTION by Commissioner Saine to add a third day for the Christmas holiday, the day being Wednesday, December 27, 2000.

Commissioner Waters stated that to keep the Board from having this confusion forever, he asked if they are saying that they should always give three work days at Christmas.

Chairman Hallman stated that he knows the Board has done it two or three years prior to this, and are doing it next year.

Commissioner Saine asked if employees got any additional days, prior to two years ago.

Mr. Kiser stated that they got Thanksgiving Day and three at Christmas. He stated that there were complaints about having to come back in on Friday after Thanksgiving, so they took a Christmas holiday away and moved it to Thanksgiving, and then there were people who wanted to have the three days at Christmas also.

VOTE: Unanimously approved.

Set Public Hearing for Animal Control Ordinance Amendment for November 20, 2000 at 6:30 PM:

A MOTION by Commissioner Waters to set the public hearing for the Animal Control Ordinance for November 20, 2000 at 6:30 PM.

VOTE: Unanimously approved.

Public Hearing Concerning Ordinance Granting a Franchise to Charter Communications, LLC. Jeff Taylor, County Attorney, stated that he has spoken with Mr. Emory, City Manager, about that. He stated that Mr. Emory advised him that City Council took this under consideration several months ago, discussed the idea of hiring outside council, a communications attorney, but decided instead to solicit opinions from the Triangle Council of Governments in the central part of the state. He stated that based on the information they got back from that agency, they decided to go ahead and approve it, so they did not see the need for any changes or any further legal review.

Chairman Hallman asked if the City received the same Franchise Agreement.

Mr. Taylor stated that it's his understanding they did.

Chairman Hallman opened the public hearing concerning the Ordinance Granting a Franchise to Charter Communications, LLC.

Commissioner Gamble stated that he understands it's an open contract and any day or any month, any company selling television could come in here and build towers, and offer it to the public at the prices they would create. He asked if this is correct.

Mr. Taylor stated that this is correct, it is a non-exclusive franchise, and the only obligation the county has is to make the same terms if any other franchises are granted, they would not be granted on any more favorable terms to any other company or organization. He stated that in other words, any other organization would have the same obligations Charter has, the same burdens, and so forth.

Commissioner Gamble asked if they could come in here and sell it cheaper if they wanted to.

Mr. Taylor stated that they could if they were able to do that under the same terms. He stated that the Board can't grant a franchise to somebody else at a cheaper franchise rate. He stated that it would have to be on the same playing field, but if somebody else comes in and their business allows them to offer a cheaper price, they would be able to compete.

Commissioner Gamble asked Chairman Hallman if he's seen a man riding around on a bicycle wheel in his area measuring feet.

Chairman Hallman stated that he hasn't seen that, but he's seen them stringing up more wires.

Commissioner Gamble stated that the week after the friendly conversation up here, there was a handsome young man with a bicycle wheel, and a gauge on it, walking up and down his driveway. He stated that he wants to make it very clear to this audience, after 15 years, and the Chairman's the one who got his attention, he badmouthed him. He stated that he didn't want to have any static about him having cable 15 years later. Commissioner Gamble stated that he is getting cable and he is buying the cheapest thing they have, because he thinks that's all he needs.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing closed.

Chairman Hallman stated that if the Board votes to grant this franchise, it will have to be a unanimous vote or if it will have to be brought up at another meeting.

Jeff Taylor stated that this is correct, this is a new ordinance, not an amendment so it will have to be unanimous or be voted on twice.

Commissioner Gamble asked about the 3 and 5% commission. He asked if the Board is voting that what Charter have been paying the county for their franchise is being changed from 3 to 5% so the county will actually receive more income.

Chairman Hallman stated that he thinks that is something that can be talked about, because he doesn't know who sponsored the 5%. He stated that apparently it was something the cable company offered to do.

Commissioner Gamble asked if the motion could include whether to charge 3 or 5%

Chairman Hallman stated that the Board could have the ordinance to remain at 2 or 3%, whatever it was before. He stated that the county's goal is to try to get them to do a good job, it's not to try and make money off of it.

Landon Barefoot stated that when the franchise was originally adopted, 3% was the maximum amount that was allowed by law for a franchise fee. He stated that since then, that has increased to 5%. He stated that the Board has the right, which is certainly agreeable to them, because that fee is passed onto the consumer. He stated that the Board can do a maximum of 5% and a minimum of none. Mr. Barefoot stated that they have some franchises that have no franchise fee, so their citizens basically have a lower gross rate, simply because they don't have that franchise fee tacked on. He stated that this is funds that would go directly to the county.

Commissioner Gamble asked the Attorney what the motion should be in his judgement.

Mr. Taylor stated that the question was whether the Board could amend what was proposed before adopting it and the Board can certainly do that, if it's the Board's desire to approve this with a 3% franchise fee. He stated that he thinks Mr. Barefoot's point is that the 5% gives the Board the flexibility to charge up to 5%, because it's a revenue source for the county and a cost that will be passed onto the consumer anyway. Mr. Taylor stated that it will be up to the Board in the future to decide exactly where to set that franchise fee up to 5%.

Landon Barefoot stated that unless the Board came back and amended the agreement, this would set what the percentage would be.

Commissioner Gamble asked how many years it would be for.

Jeff Taylor stated that it is for 15 years.

Chairman Hallman stated that he has a proposition. He stated that Mr. Barefoot suggested 5%, so 3% is 60% of 5%. He stated that he would agree to reduce the county's part if Mr. Barefoot would agree to reduce his part a like amount.

Mr. Barefoot stated that they keep no part of the franchise fee.

Chairman Hallman stated that Mr. Barefoot did not understand what he said. He stated that he knew Mr. Barefoot would not accept it. He stated that the county is not in this to make money, but just want good service.

Commissioner Gamble stated that he agrees with Chairman Hallman, if the county could take less, the cable company could too, but they won't.

Chairman Hallman stated that if a board member wanted to make a motion to approve this franchise and change the annual fee to 3%, as it was in the past, it would be a workable deal.

Commissioner Brotherton asked Mr. Kiser how much revenue this produces per year.

Mr. Kiser stated that he could not remember, he asked Leon Harmon if he knew.

Mr. Harmon stated that he thinks it is around \$55,000 for the 3%.

Mr. Barefoot stated that he would mention that if the Board would decide to go with 3%, there would still be an increase in revenues, simply because they have, with the upgrade of the system, there has been introduction of new services, such as digital cable. He stated that as their revenues increase, so does the county's revenue.

Commissioner Waters asked if he is correct in saying that if the Board approves 5%, Chairman Hallman's bill will go up again when this takes effect.

Mr. Barefoot stated that this is correct.

Mr. Kiser asked how many subscribers there are in this area.

Mr. Barefoot stated that there are 84,000 subscribers in this cluster, and he thinks it's 4,300 in Lincoln County.

Commissioner Gamble asked when the rate is subject to being elevated again by Charter.

Mr. Barefoot stated that they typically raise rates once a year, so he would suspect it would be next fall.

Chairman Hallman stated that he has Mr. Barefoot's letter that says that he will be getting a credit to offset an inadvertent adjustment to the basic and/or expanded rates that began January 1, 2000. He stated that this was reflected in his cable bill. Chairman Hallman commended Mr. Barefoot on being very prompt in getting that worked out and for promptly finding the place in west Lincoln and beginning the clean up process. He stated that it looks much better now than it did. He stated that a number of people have commented on it and Charter is being complimented now on cleaning it up. He stated that with all this having been accomplished, he would still like to say that there is a certain amount of dissatisfaction going back a number of years to the fact that the people in the west end of the county have been shortchanged. He stated that they have been charged the same amount for years and have not got the service that was afforded to the people in Lincolnton and east of Lincolnton. Chairman Hallman stated that he doesn't think Mr. Barefoot addressed that, but he is not going to beat on him anymore. He stated that he knows some of it may not be Charter's fault, since they acquired the system three years ago and inherited a bad situation and did not rectify it early on. He stated that finally he got Mr. Barefoot's attention, Mr. Barefoot did make some concessions, and the people in the community appreciate it.

Chairman Hallman entertained a motion to grant this franchise agreement.

A MOTION by Commissioner Gamble to adopt the Ordinance and sign the franchise agreement at 3%.

VOTE: Unanimously approved.

Chairman Hallman stated that he thinks Commissioner Gamble was wanting a closed session.

Commissioner Gamble stated that he wants to make a motion to have a closed session to discuss the questions that have been raised by ELBA about the east Lincoln primary school and would like to make a report to the Board in private about what he has determined. He stated that he doesn't think there's any way to do it but in private.

Commissioner Brotherton stated that he thinks that should be done in public.

Chairman Hallman asked Jeff Taylor if that would be grounds for a closed session.

Commissioner Brotherton stated that he thinks it should be done in public, because he wants the people in the public to hear what he has to say about ELBA. Commissioner Brotherton stated that ELBA has been turned into a political organization that gets up every morning looking for something to be negative about.

Commissioner Gamble stated that it will be in the eye of the beholder when he says it. He stated that he wants to say this to this Board and does not want the public to hear it.

Jeff Taylor reviewed the seven categories of items that are appropriate for closed session. He stated that one is to prevent the disclosure of information that is privileged or confidential pursuant to state law or not considered a public record. He stated that personnel items fall within that one. Mr. Taylor stated that second is to prevent premature disclosure of an honorary degree, prize, award, that type of thing. He stated that third is to consult with an attorney employed or retained by the Board in order to preserve attorney-client privilege, which may be depending on what Commissioner Gamble wants to discuss. Mr. Taylor stated that fourth is to discuss matters relating to location or expansion of industries or other businesses, and that would apparently not be the situation here. He stated that number five is to establish the public body, staff, or negotiating agents concerning position to be taken on behalf of the public body in negotiating price and other material terms of a contract, for the acquisition of real property or the amount of compensation or other material terms of an employment contract or proposed employment contract. Mr. Taylor stated that he doesn't know if real property is involved, but this one may be okay. He stated that number six is to consider qualifications, competence, performance, character fitness, conditions of appointment, or conditions of initial employment of an individual, public officer, or employee. He stated that this apparently does not involve a specific employee. Mr. Taylor stated that number

seven is to plan, conduct, or hear reports concerning investigations of alleged criminal misconduct. He stated that it could potentially be number three or number five.

Chairman Hallman stated that number five is already public record.

Commissioner Gamble asked who bought this property.

Jeff Taylor stated that the transaction has already been closed.

Commissioner Brotherton stated that he believes the School Board bought the property and the Commissioners provided them with a grant to purchase it with. He stated that this was the way he interpreted the motion he made several weeks ago.

Jeff Taylor stated that number five does refer to establishing or instructing someone on the negotiating position to be taken on the price and other material terms of the contract. He stated that it has already been negotiated and concluded, so that one probably wouldn't apply, although arguably the attorney-client privilege may apply.

Commissioner Gamble asked Mr. Taylor who bought the property.

Jeff Taylor stated that this Board voted to buy the property at the last meeting.

Commissioner Gamble asked if it has been transferred.

Jeff Taylor stated that it has been transferred to the county at this point.

Commissioner Gamble stated that it is not School Board property at this point, and that's what he understood. He stated that he does not bring this up as a bone of contention, he just wants to report to the Board in private. He stated that if the Chairman can rule in his favor, he feels like he can tell what he wants to tell and it will remain secret, if certain people on the Board won't tell it, it will remain a secret.

Commissioner Brotherton asked why the Board wants to have secrets from the public when the Board is conducting their business.

Commissioner Gamble stated that Commissioner Brotherton has called for more secret meetings than anybody on this Board.

Commissioner Brotherton stated that he never asked for one, but he's voted for them.

Mr. Taylor stated that a motion for closed session is subject to a vote of the Board, so it's up to the majority of the Board to determine whether to go into closed session. He stated that if such a motion is made, he thinks the only basis for it under the rules would be consulting with the County Attorney, and he doesn't know without knowing the information if there is such information.

Recommendations from the Planning Board – November 6, 2000:

Parallel Conditional Use Rezoning No. 72 – Smithstone Properties, LLC, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board recommended approval 5 – 0 with the condition that the proposed entrance to this phase line up with the access on the other side of the street.

A MOTION by Commissioner Brotherton to approve the zoning change subject to the Conditional Use Permit being approved.

VOTE: Unanimously approved.

Chairman Hallman presented the findings of fact for Parallel Conditional Use Rezoning No. 72 – Smithstone, LLC., applicant.

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

LINCOLN COUNTY, NORTH CAROLINA

Application Number: PCUR #72

Date: November 6, 2000

Applicant's Name: Smithstone Properties, LLC.
Address: 256 Raceway Drive, Suite 4
Mooresville, NC 28117

Property Owner's Name: Same as above
Address:

Property Location: Highway 16 North, in the Catawba Springs Township.

Existing Zoning: B-N, R-SF

Proposed Conditional Use: Expansion to an existing major subdivision with 61 Single Family Dwelling units.

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 November 6, 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. 72 with the following conditions:

1. The proposed entrance must line up with access across the street.

Vote: Unanimously approved.

Chairman

Date

Lincoln County Board of Commissioners

Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant

Lee Lawson, Land Use Coordinator, stated that the Planning Board recommended approval 5 – 0 with the condition that all water lines and taps be put in to county standards.

A MOTION by Commissioner Gamble to approve the zoning change subject to the Conditional Use Permit being approved.

VOTE: Unanimously approved.

Chairman Hallman presented the findings of fact for Parallel Conditional Use Rezoning No. 73 – Milton Keener, applicant.

RECOMMENDATION ON FINDINGS OF FACT
FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: PCUR #73

Date: November 6, 2000

Applicant's Name: Milton Keener
Address: 586 Hoffman Road
Lincolnton, NC 28092

Property Owner's Name: Same as above
Address:

Property Location: Asbury Church Road

Existing Zoning: R-T

Proposed Conditional Use: Single Family Subdivision consisting of 75 lots

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 November 6, 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. 73 with the following conditions:

1. All water lines and taps must be put in to county standards.

Vote: Unanimously approved.

Chairman
Lincoln County Board of Commissioners

Date

Conditional Use Permit No. 175 – Clifton Black, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board's recommendation was 5 - 0 to table (defer) the case. He stated that the application will probably be withdrawn, because they are going to pursue the accessory care provider.

A MOTION by Commissioner Gamble to defer Conditional Use Permit No. 175 – Clifton Black.

VOTE: Unanimously approved.

Conditional Use Permit No. 178 – William Ferrell, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board recommended approval 5 – 0 with the conditions that there will be no painting, hours of operation will be Monday through Saturday, 7 AM to 7 PM, and there will be no third party automobile repair service.

Mr. Burick stated that he wanted to make sure that no third party automobile service meant that he could service his own vehicles that he sold on the lot, as opposed to somebody else coming in. He stated that he just wanted to make that clear.

Commissioner Gamble stated that if he bought a car there and brought it back for service, he'd be a third party, technically under the law.

Mr. Burick stated that this is correct, and he just wanted to clarify it. He stated that the intention was that he be able to service the vehicles he sold there, but nobody else. He stated that it will not be open to the general public.

Commissioner Waters asked Mr. Atkins how this would be enforced.

Mr. Atkins stated that this is going to be very tough to enforce.

Commissioner Waters stated that in other words if that condition was violated, somebody would probably have to make a complaint.

Mr. Atkins stated that this is correct. He stated that he suspects that as many people that were adamantly against this in the beginning, they'll be plenty of eyes on it.

Commissioner Waters asked Mr. Atkins to educate him a little bit. He asked if he were one of those people and saw something like spray painting going on, what would he do.

Mr. Atkins stated that he would need to come to the Building and Land Development Office, fill out a written complaint form, and they would send Code Enforcement out.

Commissioner Waters asked how much this would cost.

Mr. Atkins stated that it wouldn't cost a penny.

Mr. Taylor stated that there is a procedure to get an administrative search warrant for Code Enforcement. He stated that you go to the Clerk's Office and fill out some forms, which would give staff the authority to go on site and investigate things that might not be visible to the naked eye, such as reviewing records.

Chairman Hallman presented the findings of fact for Conditional Use Permit No. 178–William Ferrell, applicant.

RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP #178 Date: November 6, 2000

Applicant's Name: William Bryant Ferrell
DBA Fire House Auto Service and Sales
Address: 2747 Southside Drive
Lincolnton, NC 28092

Property Owner's Name: William Bryant Ferrell
Address: 967 Duncan Lane
Iron Station, NC 28080

Property Location: 2747 Southside Dr.

Existing Zoning: B-N

Proposed Conditional Use: Automobile repair and sales

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.

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 Gamble. Vote: Unanimously approved.

After having held a public hearing on November 6, 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. 178 with the three following conditions, which were recommended by the Planning Board:

1. No painting.
2. Hours of operation Monday through Saturday, 7 a.m. to 7 p.m.
3. No 3rd party service will occur, only vehicles sold by the applicant.

Vote: Unanimously approved.

Chairman

Date

Lincoln County Board of Commissioners

Zoning Map Amendment No. 350 – Kenneth Tucker, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board recommended approval 5 – 0.

A MOTION by Commissioner Brotherton to approve Zoning Map Amendment No. 350 – Kenneth Tucker, applicant.

Commissioner Brotherton complimented the Planning Board on supporting economic development.

Resolution Supporting Feasibility Study for N.C. 150 Corridor Between Lincolnton and Mooresville: Shane Stewart presented the following Resolution for the Board's approval.

RESOULTION SUPPORTING A FEASIBILITY STUDY FOR THE N.C. HIGHWAY 150 CORRIDOR BETWEEN LINCOLNTON AND MOORESVILLE

WHEREAS, N.C. Highway 150 is a primary route from Lincolnton and western and central Lincoln County to Interstate 77 and points to the east and north, and

WHEREAS, traffic volumes are steadily increasing on N.C. Highway 150 between Lincolnton and Mooresville, and

WHEREAS, Project R-2307 as described in the NCDOT Transportation Improvement Plan addresses the needs to upgrade N.C. Highway 150 between Lincolnton and Mooresville, and

WHEREAS, the original feasibility study in support of Project R-2307 was done over twelve years ago, and

WHEREAS, since the original feasibility was completed tremendous growth has occurred along the corridor in Lincoln, Catawba, and Iredell Counties, and

WHEREAS, a need exists to create a new feasibility study to address explosive population growth and changes in travel patterns on and along the corridor between Lincolnton and Mooresville,

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners join with other local governmental units in Lincoln, Catawba, and Iredell Counties in support of a feasibility study to address needed upgrades to N.C. Highway 150 between Lincolnton and Mooresville.

This 6th day of November, 2000

Jim Hallman, Chairman
Lincoln County Commissioners

ATTEST:

Amy Long, Clerk
Lincoln County Commissioners

Chairman Hallman stated that this is a joint effort of three counties and a couple municipalities to get 150 back onto the TIP. He stated that he thinks it's a good thing to do. He stated that regardless of who wins the election tomorrow, there's going to be a new Board of Transportation.

Commissioner Waters stated that on the fifth whereas, the word since needed to be added.

A MOTION by Commissioner Gamble to approve the Resolution.

VOTE: Unanimously approved.

Other Business: Chairman Hallman stated that Commissioner Gamble has requested a closed session. He stated that if Commissioner Gamble would make that in the form of a motion, they can see where it goes.

Commissioner Gamble stated that he feels like this is something he has involved himself in, he has found out information he feels like everyone on the Board, whether they are for or against. He stated that it's just a matter of being better informed. He stated that he went to the school site three times, with different sets of people every time. He stated that he went there on the insistence of someone on this Board that he should go look, and he went home after that Monday night and felt bad that he hadn't, so the next day he did go. He stated that after he went, he went back two more times. He stated that he had it arranged with one official on the School Board staff to go with him, and then later he was told that they felt if they went with him it would be disloyal to the School Board. He stated that he accepted that at full faith, because that person has a job. He stated that he does know that the first thing he knew about this, he read the letter from ELBA to the public about their examination and opinion on that site. He stated that he has determined a little additional information, they have a lot of information that he didn't know about, and still doesn't know about. Commissioner Gamble stated that he knows enough that he feels he should share with his peers about what has transacted. He stated that the county has already paid for the property and it comes up as to whether it was totally prudent to make that decision in that much haste. He stated that there won't even be anything done until next year. Commissioner Gamble stated that he just wants to let the Board know what he knows, and if he is voted down, he has been defeated before and will be again, but not on the basis of individuality. He stated that he went on the basis of some people

asking him to go, he had phone calls, at least 20 people went with him one way or directly another way down there to see it. He stated that he formed an impression of what he saw, and thinks it's a pity, without having any conflict with the School Board, because he respects everybody there, but thinks that this might point up to the future that this county needs some kind of acquisition committee to analyze purchases over \$150,000 or something to come back and tell the Board what they think of a decision to look at something that is going to cost that much. Commissioner Gamble stated that as he understands it now, the county bought the property, the School Board didn't so it's apparently in the name of Lincoln County, and as a custodian of that responsibility, and knowing what he knows, he thinks the other Board members ought to know what he thinks he knows and that would be the end of it. He stated that he just wants to give the Board a privileged report on his examination, and an examination comes under the closed session rules.

A MOTION by Commissioner Gamble to go into closed session to discuss the merits of acquired property and the process.

Commissioner Brotherton stated that he has some comments. He stated that this whole thing with this property has been stirred up by the non-elected, self-appointed, 8th member of the School Board. He stated that this person initiated this thing to begin with because he didn't get his way, wanting to play politics with the children, then he went to ELBA, the ELBA officers, which is 5 or 6 people. He stated that the membership of ELBA has allowed that organization to be turned into nothing more than a political organization, and as he said earlier, all one has to do to verify this is read their newsletter, a group that gets up every morning looking for something to be negative about and complain about. He stated that his observation of ELBA, and he keeps a pretty close eye on it, is drying up and withering on the vine and all you have to do is go to the meetings and count the number of people that attend these meetings. He stated that people are finally figuring out what it has been allowed to be turned into. Commissioner Brotherton stated that the 8th member of the School Board, one of his complaints has been the \$20,000 per acre purchase price, and that's been a big issue. He stated that we're talking about property with access to 16, and it was just last week he was a party of a land option down on Killian Road. He stated that he doesn't like to talk about something being out in the middle of nowhere, but it's about as far out in the east end of Lincoln County as you can get. Commissioner Brotherton stated that this person had land to sell, and this option is for \$22,000 per acre and there is no water and sewer on that 8th member of the School Board's property. He stated that when this motion is approved or defeated, he would like the opportunity to make another motion.

VOTE: 2 – 3 **AYES: Gamble, Waters**
NOES: Hallman, Brotherton, Saine

Commissioner Gamble stated that the Board's job here is to let the public know what they do.

Commissioner Brotherton stated that this is why he wants it done openly to let the public know.

Commissioner Gamble stated that he will discuss this openly, in front of an audience, and say that last Monday the Board met, this came up, and at sometime during the meeting his friend W. J. Waters said "Dr. Gamble you just need to go see the property." He stated that he didn't sleep good that night, got up the next morning and said there was a message in what W. J. told him, and went back and read the ELBA newsletter from the week before. He stated that it made three points, one was the suitability of the access directly onto 16. He stated that he thought of that when the guy was talking about his place and the people coming through his corner, and that's when he asked what the vehicle count was. Suitability of topography was another one, and it's not good. He stated that he told Betty Lawing this yesterday, that this was one of his holdbacks was the suitability of the topography. He stated that he knows they are going to have first graders and maybe earlier than first graders down there eventually, and he can see kids getting down in that crater, that you could put two of the Citizen Center in and still have room left over. He stated that they are over 80 feet deep. Commissioner Gamble stated that everybody he went to said they could not believe this. He stated that this was sort of his reaction.

Commissioner Gamble stated that the last thing is that they paid \$20,000 per acre for 31 or 32 acres, which exceeded the budgeted amount by 388%, and only 2/3, maybe, of the property is even suitable for construction or for safety of children. He stated that he regrets that he didn't get into the act sooner, he's blaming himself for not coming forward and finding out what was going on. He stated that he did not get the message until W. J. told him he should go look at it, and then he did go. He stated that he went with a couple people, went down there and eyeballed it. Commissioner Gamble stated that he went with 10 people from the Democratic Men's Group Saturday morning. He stated that he knows that will make it partisan and all that, but he would rather tell the truth than not tell it. He stated that he didn't know whether to go get 10 Republicans, and he wasn't having breakfast with them. Commissioner Gamble stated that they all walked around and looked at it, but the main thing was they went downhill into this volcano pit, 80 feet deep, 1,200 feet across, 800 feet from front to back. He stated that there are two or three streams down there, which would have to be drained if it were ever used. He stated that he would think that it would be good for a landfill, so if they could build a big fence back there to keep the kids out of that hole, that might be some salvation for it. He stated that he is not trying to sound critical, but these are his reactions. He stated that if any member hasn't seen the property, they owe it to themselves, because they bought this property, and he did, he voted for it and then backed out. He stated that he backed out after he heard Jimmie Dellinger and W. J., and that's why he withdrew his motion, and wants it put in the paper. He stated that it was published that he voted for it, and ELBA said he voted for it. He stated that he doesn't mind having his vote recorded, but wants it recorded accurate. Commissioner Gamble stated that he then called from the staff of the School Board, and that person said they would go with him. He stated that he really became very emotional about this, because he got upset that he was making it appear that he was criticizing friends. He stated that he likes Betty Lawing and her leadership skills are great, but he knows he has never taken out the wrong appendix, but could see where he would've, if he had the wrong person wheeled in. He stated that he thought he ought to look it to see where the other people thought it was subject to criticism or good

judgement. He stated that the person from the School Board said they couldn't go, because they didn't want to seem disloyal. He stated that then he called Ms. Betty Lawing, and had his wife driving him, but they went and didn't have any hard feelings. He stated that they walked around and stood on the edge of the crater, and looked down in that hold, then drove around to the north side of the crater and looked into the hole. He stated that one thing, and official of the School Board went, and he didn't know where the corner pegs were either. Commissioner Gamble stated that they stopped at a corner peg, and the official said the corner was way down there 400 or 500 feet. He stated that it wasn't. Commissioner Gamble stated that he could have made that kind of mistake, but if he would have thought if he had been there representing the School Board he wouldn't have. He stated that they then talked to the lady who lived at the property, she was one of the heirs, and the school is going to be right in front of his house. Commissioner Gamble stated that he first was going to read a statement, and said that was not the thing to do to antagonize the School Board or Ms. Lawing or Robin. He stated that he just wanted to tell the Board personally, but his good friend from the east didn't give him that privilege and he knew he wasn't going to be muzzled by him. He stated that he is just telling what transpired, as he remembers it. Commissioner Gamble invited all the Commissioners, since they bought it, paid for it, and own it, to go look at it. Commissioner Gamble stated that he thinks the Board paid too much, they paid \$20,000 per acre and shouldn't have even paid \$1,500 per acre for that wasteland. He stated that this is literally what his impression is.

Commissioner Brotherton stated that he believes the School Board has had engineers, architects, and grading experts on the site and would certainly put more stock in their opinion than anybody from ELBA or the 8th member of the School Board. He stated that from what he has been told, they moved 300,000 cubic yards of dirt at Pumpkin Center and the engineers, architects and grading people are coming up with 90,000 cubic yards at this site. Commissioner Brotherton stated that as far as the springs, if you go down the street about 1,000 feet from that, is an industrial park that he is a partner in and there is about 5 springs that were piped, and it's no big deal to do that. He stated that he hasn't heard anything new here tonight.

Commissioner Gamble asked if taxpayers paid for Commissioner Brotherton's property.

Commissioner Brotherton stated that he will say that when Commissioner Gamble starts talking about \$1,600 per acre for land, he apparently hasn't been to east Lincoln County since the stock market crashed in 1928. He stated that as soon as this is over, he would like to make another motion. Commissioner Brotherton stated that Dr. Gamble wanted to offer the School Board members present an opportunity to speak and defend their purchase

Commissioner Gamble asked if they will accept questions.

Betty Lawing stated that she didn't come prepared for that, she came to listen. She stated that she will be glad to make a statement.

Commissioner Gamble stated that he is here giving his reactions to what he saw. He stated that the Board wouldn't let him tell it privately, and it wasn't meant for Betty

Lawing's ears or anybody here's ears. He stated that they were trying to force him to give his reactions to what he saw and what he reacted to. He apologized if he hurt Betty's feelings or Robin's feelings, or anybody connected to the School Board. He stated that this is why he asked for a closed session and as usual politics got into it.

Robin Heavner Brown stated that as a School Board member she would like to agree with Dr. Gamble that politics has gotten into it, but politics got into it before tonight. She stated that in 2003 she invites all the Board to come see the elementary school in east Lincoln.

Betty Lawing stated that she did meet with Dr. Gamble and listened to his concerns, and Dr. Gamble is a fine gentleman, as she admitted to him yesterday, and they are friends. She stated that the property does have some deep spots in it, however on one side of the property there is 15 to 20 usable acres where they plan to put the school. He stated that Mr. Kelly, who lives directly behind the school, told her that when he was a boy, he used to walk behind the mule and plow that field. She stated that she doesn't believe that mules go down in deep ravines and come back up, they generally just plow in a straight line. Ms. Lawing stated that any piece of property that you look at is going to have a portion that is unusable, and she thinks Ms. Saine will attest to that, since she is in the property business. She stated that Mr. Sherrill would not have sold just the portion of the land they needed, most land owners, when they want to sell a piece of property, they want to sell the total. Ms. Lawing stated that the School Board voted 6-1 to make a purchase, and they have been doing this over the past few months. She stated that it came before the Commissioners and was a 4-1 vote. Ms. Lawing stated that there is no conspiracy, there is no monetary value coming to anybody, it's just a decision where they have to move forward, and that is what they are elected to do.

A MOTION by Commissioner Brotherton to suspend the rules to add an item to the agenda, which concerns the land purchase financing for the school site at east Lincoln for the elementary school.

Commissioner Gamble asked if they are entitled to know what it's about. He stated that they have to know what his motion is going to be about if he is going to vote. He stated that they don't vote for a pig in a poke.

Commissioner Brotherton stated that all anyone has to do is count to three.

Commissioner Waters stated that he was planning to vote for it, but may change it now.

**VOTE: 4 – 1 AYES: Hallman, Saine, Waters, Brotherton
 NOES: Gamble**

Commissioner Gamble stated that he in view of not knowing the substance, he is voting no.

Jeff Taylor advised that there needs to be a motion now to add the item since the rules have been suspended.

A MOTION by Commissioner Brotherton that the item be added to the agenda concerning land purchase financing for the elementary school in east Lincoln County.

VOTE: 4 – 1

AYES: Hallman, Saine, Brotherton, Waters

NOES: Gamble

Commissioner Brotherton stated that the total purchase price is \$625,000. He stated that at the closing last week, a payment of \$208,333.33 was made to the property owner. Commissioner Brotherton stated that this leaves a balance of \$416,667. He stated that the schools have budgeted \$128,000 that they are going to pay for it, which leaves the county's amount to be paid at \$288,666.67. He stated that he has a lot of concern about what type of action may be taken by future Boards concerning this property. He stated that he's heard statements of just let it go back to the property owner, that type thing, and he hates to see the 8th member of the School Board be given priority over the needs of the little children.

A MOTION by Commissioner Brotherton that the county take this difference, roughly \$288,000, within the next 72 hours and cut a check to the school administration, designated to be used to pay the balance of the county's grant on the purchase of this property.

Commissioner Gamble asked why Commissioner Brotherton is going to such limits to cinch this deal. He stated that it really puts a cloud over it when Commissioner Brotherton goes to that extent.

Commissioner Brotherton stated that if Commissioner Gamble thinks there is a cloud over it, he needs to come up with what the cloud is, because there is not one.

Commissioner Gamble stated that he thinks Commissioner Brotherton created a bad cloud to cinch that deal before he left just to keep from time having to look at what's happened. He asked what the hurry is.

Commissioner Brotherton stated that the School Board wants to move forward, this thing needs to be put to bed and basically put the 8th member of the School Board out of business.

Commissioner Gamble stated that Commissioner Brotherton is not on the School Board.

Chairman Hallman stated that there is a motion on the floor to initiate a payment for \$288,000 in the next 72 hours to the School Administration to assure the purchase of the land, as a payment for the land purchase.

Jeff Taylor stated that there is more than that owed. He asked where the rest will come from.

Mr. Kiser stated that they were going to pay it all from the bond proceeds and let the interest that the bonds would earn over the life of it. He stated that the bond closing is the 14th.

Commissioner Waters stated that his comment is going to be short. He stated that that motion was the most fiscally irresponsible thing he's heard in a long time. He stated that it makes no sense at all. He asked what the School Board is going to do with that \$288,000 when they receive it 3 days from now.

Commissioner Brotherton stated that he guesses they will draw interest on it and spend it on the children.

Commissioner Gamble stated that this is ridiculous and it's time to go home.

Chairman Hallman stated that the way the property purchase is, it's in the name of the county until it is fully paid for and then the title will change over to the schools.

Jeff Taylor stated that it will have to be done by deed at that time. He stated that the property was transferred from the Sherrills to Lincoln County and the Sherrills took back a purchase money note and deed of trust on the property to secure the remainder of the purchase price, which is due on or before January 31, 2001. He stated that those are the terms of the documents that were signed at closing.

Commissioner Waters asked if he had any reason to believe those documents are not binding to the county.

Jeff Taylor stated that he didn't.

Chairman Hallman asked what would happen if a new Board came in the first of December and said the extra School Board member has convinced us that this is not a good piece of property, and we want to walk away from it. He asked if Mr. Sherrill would just be happy.

Jeff Taylor stated that the county could do one of two things at that point, either try to negotiate a sale back or default on the financing, at which point the Sherrill's could keep the \$208,000 that has already been paid and retake the property under the note and deed of trust. He stated that this is the remedy for a default on a purchase money note and deed of trust.

Chairman Hallman asked when the proceeds will be in from the bond sale.

Leon Harmon stated that they will be in the 14th of November. He stated that defaulting on a loan is not really an option. He stated that even talking about defaulting on a loan, the Local Government Commission would get excited over that.

Commissioner Gamble stated that we've gone under their recommended fund balances for ten years.

Commissioner Brotherton **amended his motion** that it would be payable when the bond money arrives.

Chairman Hallman stated that if they went ahead and paid Mr. Sherrill off, that would clear the property, they could pay him out of the bond proceeds.

Commissioner Waters asked what the point of all this was. He stated that the Board's trying to make it cost more now.

Commissioner Gamble stated that they are ramrodding it through to satisfy Mr. Terry Brotherton.

Commissioner Waters stated that the main complaint is that they paid too much for a piece of land for the schools. He stated that this makes it higher.

Chairman Hallman asked how it makes it higher.

Commissioner Waters stated that we will get the interest on that money instead of Mr. Sherrill. He stated that we're talking about leaving that bond proceeds in the bank until we draw interest, which would draw enough interest to pay this if we keep the money. He stated that if we do the way the motion was made, they would give the man the money and the interest.

Commissioner Gamble called the question saying the Board needs to do what Commissioner Brotherton suggests. He stated that he thinks that's smart.

Commissioner Saine stated that her question was why did it come up tonight.

Commissioner Gamble stated that he had questions he wanted to share with the Board in private about the legitimacy of the purchase and the purchase price, and these other things.

Commissioner Brotherton **withdrew his motion** until the next meeting, to be placed on the November 20, 2000 agenda.

Stan Kiser, County Manager, stated that DSS ran some copies of the Work First Plan by for him to share with the Board.

Mr. Kiser stated that the County Engineer has requested that the county purchase him a 4 wheel drive vehicle for him. He stated that the original engineer had one, and it was taken and used in the Water Department. He stated that the vehicle would cost from \$23,000 to \$25,000 under the state contract.

A MOTION by Commissioner Waters to proceed with buying a 4 wheel drive vehicle for the County Engineer at a cost up to \$25,000.

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