

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 4, 2000

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on December 4, 2000 at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 5:30 PM.

Commissioners Present:

Jerry W. Cochrane
Beth H. Saine
Thomas R. Anderson, PE
Larry S. Craig
Dr. John R. Gamble, Jr.

Planning Board Members Present:

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

Others Present:

Stan B. Kiser, County Manager
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: Stan Kiser, County Manager, called the December 4, 2000 meeting of the Lincoln County Board of Commissioners to order.

Mr. Larry Craig asked that Dr. Bob Wise observe a moment of silence for Mr. Farrell Sain, who died on Friday, and to remember his family in prayer. He stated that Mr. Sain attended all the Commissioner's meetings.

Invocation: Dr. Bob Wise of South Fork Baptist Association observed a moment of silence and then gave the invocation.

INDUCT BOARD OF COMMISSION MEMBERS

by Judge Dean Black

Jerry W. Cochrane

Beth H. Saine

Thomas R. Anderson, PE

Larry S. Craig

Judge Dean Black administered the Oath of Office to the newly elected members, Jerry W. Cochrane, Beth H. Saine, Thomas R. Anderson, PE, and Larry S. Craig.

**STATE OF NORTH CAROLINA
COUNTY OF LINCOLN**

I, **Jerry W. Cochrane**, do solemnly swear that I will support the Constitution of the United States; so help me, God.

I, **Jerry W. Cochrane**, do further solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, **Jerry W. Cochrane**, do further swear that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Jerry W. Cochrane

Subscribed and sworn to before me this 4th day of December, 2000, as witness my hand.

Judge Dean Black

**STATE OF NORTH CAROLINA
COUNTY OF LINCOLN**

I, **Beth H. Saine**, do solemnly swear that I will support the Constitution of the United States; so help me, God.

I, **Beth H. Saine**, do further solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities

which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, **Beth H. Saine**, do further swear that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Beth H. Saine

Subscribed and sworn to before me this 4th day of December, 2000, as witness my hand.

Judge Dean Black

**STATE OF NORTH CAROLINA
COUNTY OF LINCOLN**

I, **Thomas R. Anderson**, do solemnly swear that I will support the Constitution of the United States; so help me, God.

I, **Thomas R. Anderson**, do further solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, **Thomas R. Anderson**, do further swear that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Thomas R. Anderson

Subscribed and sworn to before me this 4th day of December, 2000, as witness my hand.

Judge Dean Black

STATE OF NORTH CAROLINA

COUNTY OF LINCOLN

I, **Larry S. Craig**, do solemnly swear that I will support the Constitution of the United States; so help me, God.

I, **Larry S. Craig**, do further solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, **Larry S. Craig**, do further swear that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Larry S. Craig

Subscribed and sworn to before me this 4th day of December, 2000, as witness my hand.

Judge Dean Black

Election of Chairman: Stan Kiser, County Manager, convened the new Board of Commissioners and opened the floor to nominations for Chairman.

Commissioner Anderson nominated Commissioner Jerry Cochrane as Chairman.

Commissioner Craig motioned that the nominations be closed.

Vote: Unanimously approved.

Chairman Cochrane welcomed everyone to the meeting and stated that he hopes the Board can serve everyone well.

Election of Vice Chairman: Chairman Jerry Cochrane conducted the election of vice chairman.

Commissioner Craig nominated Commissioner Beth Saine for Vice Chair, stating that Commissioner Saine was the first woman elected to the County Commissioners and has served well.

Commissioner Anderson motioned that the nominations be closed.

Vote: Unanimously approved.

Appointment of County Manager: Commissioner Craig motioned to appoint Stan Kiser as County Manager.

VOTE: 4 – 1 AYES: Cochrane, Saine, Anderson, Craig
NOES: Gamble

Appointment of Clerk to the Board: Commissioner Saine motioned to appoint Amy Long as Clerk to the Board.

VOTE: Unanimously approved.

Appointment of County Attorney: Commissioner Anderson motioned to appoint Mr. Jeff Taylor to continue as County Attorney.

Commissioner Gamble motioned that the nominations be closed and that Mr. Taylor be elected by acclamation.

Chairman Cochrane stated that Commissioner Gamble was out of order, because the Board was not nominating at this point.

Chairman Cochrane stated that it is his understanding that the firm that Jeff Taylor is employed by should be stated in the motion.

Commissioner Anderson stated that Mr. Taylor works for Pendleton and Pendleton.

VOTE: Unanimously approved.

Recognition of Commissioner Service: Chairman Cochrane presented plaques to outgoing Commissioners W. J. Waters, Jr., James Hallman, and Terry Brotherton.

Chairman Cochrane called for a 15 minute recess and announced that the meeting would resume in the Commissioner's Room on the third floor.

Chairman Cochrane called the December 4, 2000 meeting to order.

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

UPON MOTION by Commissioner Craig the Board voted unanimously to adopt the agenda as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

DECEMBER 4, 2000

- 5:30 PM Call to Order – County Manager
- Invocation – Dr. Bob Wise
 South Fork Baptist Association
- Induct Board of Commission Members
 By Judge Dean Black
 Jerry W. Cochrane
 Beth H. Saine
 Thomas R. Anderson, PE
 Larry S. Craig
- Seating of Board
- Election of Chair
- Election of Vice-Chair
- Reappointment of County Manager
- Reappointment of Clerk to the Board
- Reappointment of County Attorney
- Recognition of Commissioner Service
- Public Congratulations
1. 6:00 PM Adoption of Agenda
 2. 6:00 PM Adoption of Rules of Procedure
 3. 6:10 PM Announcement of Board Organization
 4. 6:15 PM Approval of Minutes
 - November 6, 2000
 5. 6:20 PM New Business/Advertised Public Hearings
 - Parallel Conditional Use Rezoning No. 74 – Lloyd Caldwell, applicant. Request for a Parallel Conditional Use Permit to rezone a 1.53 acre portion of a 6.29 acre parcel from Residential Single-Family (R-SF) to Conditional Use Residential Suburban (CU R-S) to allow a single-wide mobile home on Goodson Road in the Ironton Township.

- Conditional Use Permit No. 176 – Richard Hunter, applicant. Request for a Conditional Use Permit to accommodate approximately a .87 acre land clearing and inert debris landfill in a Residential Transitional (R-T) zoning district located off Topaz Lane in the Catawba Springs Township.
- Conditional Use Permit No. 179 – Margo Stone, applicant. Request for a Conditional Use Permit to accommodate an animal kennel on lot #14 & 15 of the Denver Business park zoned General Industrial (I-G) located off Denver Drive in the Catawba Springs Township.
- Zoning Map Amendment No. 351 – Brody Harkey, applicant. Request to rezone two (2) parcels 1.4 and 1.5 acres in size from Residential Single-Family (R-SF) with a Designated Highway overlay district (D-H) to General Business (B-G D-H) in order to sale as B-G. The parcels are located off NC Highway 16 in the Catawba Springs Township.
- Zoning Map Amendment No. 352 – CW Campo, applicant. Request to rezone one (1) parcel from Neighborhood Business (B-N) with a Designated Highway overlay district (D-H) to General Business (B-G D-H) to accommodate a boat repair and sales business located off North Pilot Knob Road in the Catawba Springs Township.
- Zoning Map Amendment No. 353 – Dean & Melissa Fisher, applicants. Request to rezone a .66 acre portion of a 2.83 acre parcel that is zoned Residential Single-Family with a Designated Highway overlay district (R-SF D-H) to Neighborhood Business (B-N D-H). The property is located off NC Highway 16 in the Catawba Springs Township.
- Zoning Map Amendment No. 354 - Lincoln County Building and Land Development, applicant. Request to rezone a 4.99 acre parcel owned by Patrick Elmore from Conditional Use Light Industrial (CU I-L) with a Designated Highway overlay district (D-H) to General Business (B-G D-H) since applicant did not follow the Conditional Use Permit instead building a commercial building not permitted in the I-G zoning district. The property is located off NC Highway 16 in the Catawba Springs Township.

6. 7:10 PM Resolution for Council of Governments (COG) to Receive State Funds

7. 7:20 PM Resolution to Approve Waiver of Bidding Requirements to

Purchase Ambulance

8. 7:30 PM 2001 Meeting Schedule
9. 7:40 PM Board of Variance Composition
10. 7:50 PM Other Business
11. 8:05 PM Recommendations of Planning Board – December 4, 2000
 - Parallel Conditional Use Rezoning No. 74 – Lloyd Caldwell, applicant.
 - Conditional Use Permit No. 176 – Richard Hunter, applicant.
 - Conditional Use Permit No. 179 – Margo Stone, applicant.
 - Zoning Map Amendment No. 351 – Brody Harkey, applicant.
 - Zoning Map Amendment No. 352 – CW Campo, applicant.
 - Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicant.
 - Zoning Map Amendment No. 354 – Lincoln County Building and Land Development.

Adjourn

Adoption of Rules of Procedure: Chairman Cochrane presented the following Rules of Procedure.

RULES OF PROCEDURE

LINCOLN COUNTY

BOARD OF COMMISSIONERS

I. Applicability

Rule 1. Applicability of Rules. These rules apply to all meetings of the Board of Commissioners of Lincoln County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Open Meetings

Rule 2. Meetings to Be Open.

(a) The public policy of North Carolina and of Lincoln County is that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Lincoln County Board of Commissioners shall be open to the public, and any person may attend.

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Rule 3. Closed Sessions.

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session and exclude the public, but only under the following circumstances:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
2. To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
3. To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
4. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
6. To consider the qualifications, competence, performance, character, fitness, conditions or appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an

appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

7. To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

(b) Repealed by Session Laws 1991, c. 694, s. 4.

(c) Calling a Closed Session – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 560, s. 2.

III. Organization of the Board

Rule 4. Organizational Meeting. On the first Monday in December following a general election in which county officers are elected, the board shall meet at the regular meeting time and place. The County Manager or the clerk to the board of commissioners shall call the meeting to order and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from its members. As the third order, the board shall approve the bonds of the register of deeds, and the sheriff, and induct them and any other newly elected county officials into office.

Rule 5. Election of the Chair. The chair of the board shall be elected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a board member.

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings.

(a) Regular Meetings. The board shall hold a regular meeting on the [first] and [third] [Monday] of each month. If a regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Board of County Commissioners Meeting Room on the Third Floor of the Citizens Center and shall begin at [time]. The board may change the place or time of a particular regular meeting or of all regular meetings within a specified period by resolution adopted, posted, and noticed at least seven days before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

(b) Special Meetings. The chair or a majority of board members may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and subjects to be considered. The person or persons calling the meeting shall cause the notice to be posted on the principal bulletin boards of the county and delivered to the chair and all other board members or left at the usual dwelling place of each member at least forty-eight hours before the meeting.

In addition, the notice shall be mailed or delivered to individual persons and news organizations having requested such notice as provided in subsection (e), below. Only items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed waivers.

(c) Emergency Meetings. If a special meeting is called to deal with an unexpected circumstance requiring immediate consideration, the notice requirements of this rule do not apply. However, the person or persons calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in subsection (e), below, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

(d) Work Sessions and Committee Meetings. The board may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by resolution or order of the board. A schedule of any such meetings held regularly shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings.

(e) Sunshine List. Any individual and any newspaper, wire service, radio station, and television station may file a written request with the clerk to the board of commissioners for notice of all special meetings of the board. Requests by individuals {must be renewed by the last day of each calendar ~~quarter~~ year and} are subject to a \$20.00 non-refundable annual fee; requests by news organizations ~~{must be renewed annually by July 1 and}~~ are not subject to any fee.

Rule 7. All Meetings Within the County. All meetings shall be held within the boundaries of Lincoln County except as otherwise provided herein.

- (1) A joint meeting with the governing board of any other political subdivision of this or any other state may be held within the boundaries of either subdivision as may be specified in the call of the meeting. At any such joint meeting, this board reserves the right to vote separately on all matters coming before the joint meeting.
- (2) A special meeting called for considering and acting on an order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or other such place as stated in the call of the meeting.

Rule 8. Broadcasting and Recording of Meetings.

(a) Except as provided in this rule, any radio or television station may broadcast all or any part of an official board meeting required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official board meeting shall so notify the county manager no later than forty-eight hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the Citizens Center is available, the county manager may require the news media to either pool equipment and personnel or to secure and pay the costs of an alternative meeting site mutually agreeable to the board and the media representatives.

V. Agenda

Rule 9. Agenda.

(a) The clerk to the board shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least **five** ~~four~~ working days before the meeting. Any board member may, by a timely request, have an item placed on the agenda.

(b) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each board member at least twenty-four hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(c) The board may, by majority vote, add an item not on the agenda.

Rule 10. Informal Public Comments. The clerk to the board shall include on the agenda of each regular meeting at least fifteen minutes for comments or questions from the public in attendance. The chair will first recognize individuals or groups having made appointments to be heard, and then may recognize others, subject to available time. The chair may specify the time allotted to each speaker. When the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

Rule 11. Order of Business. At regular meetings, the board shall proceed to business in the following order:

1. Approval of the minutes of the previous meeting.
2. Scheduled public hearings.
3. Action items.
4. Informal public comments.
5. Administrative reports.
6. Committee reports.
7. Unfinished business.
8. Introduction of ordinances, resolutions and orders.
9. Other new business.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

VI. Conduct of Debate

Rule 12. Powers of the Chair. The chair shall preside at all board meetings. To address the board, a member must be recognized by the chair. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion offered for patently obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a brief recess at any time;
4. To adjourn in an emergency.

Rule 13. Presiding Officer When the Chair Is Active in Debate. If the chair wishes to debate a proposal actively, he or she shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

Rule 14. Action by the Board. The board shall proceed by motion. Any member, including the chair, may make a motion.

Rule 15. Second Not Required. A motion shall not require a second.

Rule 16. One Motion at a Time. A member may make only one motion at a time.

Rule 17. Substantive Motion. A substantive motion is out of order while another substantive motion is pending.

Rule 18. Adoption by Majority Vote. A motion shall be adopted if approved by a majority of the votes cast, unless otherwise required by these rules or North Carolina laws.

Rule 19. Debate. The chair shall state the motion and then open the floor to debate, presiding according to these general principles:

- (1) The member making the motion or introducing the ordinance, resolution, or order may speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) If possible, the debate shall alternate between opponents and proponents of the measure.

Rule 20. Procedural Motions.

(a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

(b) In order of priority (if applicable), the procedural motions are:

1. *To Adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
2. *To Recess.*
3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.

4. *To Suspend the Rules.* The motion requires a vote equal to a quorum.
5. *To Divide a Complex Motion and Consider It by Paragraph.*
6. *To Defer Consideration.* A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
7. *To Call the Previous Question.* The motion is not in order until there has been at least twenty minutes of debate and every member has had one opportunity to speak.
8. *To Postpone to a Certain Time or Day.*
9. *To Refer to Committee.* Sixty days after a motion has been referred to committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.
10. *To Amend.* An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.
11. *To Revive Consideration.* The motion is in order at any time within one hundred days of a vote deferring consideration. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.
12. *To Reconsider.* The motion must be made at the same meeting where the original vote was taken, and by a member who voted with the prevailing side. It cannot interrupt deliberation on a pending matter but is in order any time before adjournment.
13. *To Prevent Reconsideration for Six Months.* The motion shall be in order only immediately following the defeat of a substantive motion. It requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

Rule 21. Renewal of Motion. A defeated motion may not be renewed at the same meeting.

Rule 22. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

Rule 23. Duty to Vote. It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member wishing to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative. In the event of the failure of a member to express a vote, the Chairman shall specify for the record any member who failed to express a vote and that such failure shall be recorded as an affirmative vote. The Chairman's action in such event shall be conclusive unless the non-voting member immediately expresses an objection in order to record a negative vote. The Chairman in his discretion may demand a roll-call vote.

Rule 24. Prohibition of Secret Voting. No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall

record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, when they may be destroyed.

Rule 25. Action by Reference. The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Rule 26. Introduction of Ordinances, Resolutions, and Orders. A proposed ordinance shall be deemed introduced at the first meeting where it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

Rule 27. Adoption, Amendment, or Repeal of Ordinances. To be adopted at the meeting where it is first introduced, an ordinance or an action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority but not by all the members of the board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within one hundred days of its introduction receives a majority of the votes cast, the measure is adopted.

Rule 28. Quorum. A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Rule 29. Public Hearings. Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

Rule 30. Quorum at Public Hearings. A quorum of the board must be present at all public hearings required by law.

Rule 31. Minutes. To the extent required by N. C. G. S. Sections 153A-42 and 143-318.10(e) and applicable case law, the Clerk shall keep full and accurate minutes of the proceedings of the Board of Commissioners to record actions taken, including the results of each vote, and evidence that such actions were taken according to proper procedures. Upon the request of any member, the ayes and noes upon any question shall be taken and recorded. The minutes shall not become the official record of the Board's actions until they are adopted by the Board. The minutes shall be available for public inspection.

If the Board becomes aware of an error in minutes that have been previously adopted, the Board may correct the minutes. The Clerk shall note any such correction in the minutes of the meeting at which the correction is made and shall place an appropriate notation and cross reference at the place in the minutes where the provision being corrected appears.

With respect to closed sessions of the Board of Commissioners, the Clerk shall keep full and accurate minutes to the extent required by N. C. G. S. 143-318.10(e) and applicable case law and shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such minutes and accounts shall be public records within the meaning of the Public Records Law, N. C. G. S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with N. C. G. S.

143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 32. Appointments. The board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.

The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. After the debate, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.

Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so does not invalidate that member's ballot.

Rule 33. Reference to *Robert's Rule of Order*. To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *RRO* to resolve procedural questions.

A MOTION by Commissioner Anderson that the existing Rules of Procedure be amended by the County Attorney to bring them into conformance with the latest amendment, 2nd Edition Revised of the Rules of Procedure for the Board of County Commissioners.

Chairman Cochrane stated that the Rules of Procedure the Board is operating under now are identical to the 2nd Edition that has not been revised. He stated that the motion is to modify these to reflect the changes and revisions.

Commissioner Gamble stated that one thing he does not like about the Board's procedures is that if you don't say no, you're voted yes. He stated that he doesn't like to have to ask the Board to approve him abstaining. Commissioner Gamble stated that he just thinks the Board ought to have a straight up and down yes and no vote on every issue.

Chairman Cochrane stated that if Commissioner Gamble doesn't vote, he will try and remember to ask him which way he wants to vote.

Commissioner Craig asked if this will cover the Board being able to make seconds.

Chairman Cochrane stated that a board member can make a second, although it is not required. He stated that if a member wants their support to be known, they can second, but it will not be required.

Commissioner Gamble asked if there will be discussion on every motion.

Chairman Cochrane stated that there will be discussion on every motion.

VOTE: Unanimously approved.

Chairman Cochrane asked the County Attorney when this will be available for the Board.

Jeff Taylor stated that it should just be a matter of when someone can get it typed.

Announcement of Board Organization: Chairman Cochrane stated that at this time, the Board Organization appointments are not ready, but hopefully will be by the next meeting.

UPON MOTION by Commissioner Craig, the Board voted unanimously to defer the Announcement of Board Organization until the next meeting.

Approval of Minutes – November 6, 2000: Chairman Cochrane presented the minutes of the November 6, 2000 meeting for approval.

UPON MOTION by Commissioner Saine, which was seconded by Commissioner Gamble, the Board voted unanimously to accept the November 6, 2000 minutes as presented.

VOTE: Unanimously approved.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, December 4, 2000 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on November 24, 2000 and December 1, 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, December 4, 2000 to consider the following zoning related matters:

PCUR #74 Lloyd Caldwell, applicant (Parcel ID #28503; PIN #3665-02-58-4829) request for a Parallel Conditional Use Permit to rezone a 1.53 acre portion of a 6.29 acre parcel from Residential Single-Family (R-SF) to Conditional Use Residential Suburban (CU R-S) to allow a single-wide mobile home on Goodson Road in the Ironton Township.

CUP #176 Richard Hunter, applicant (Parcel ID #02489, 51524, 51523, & 51522) request for a Conditional Use Permit to accommodate approximately a .87 acre land clearing and inert debris landfill in a Residential Transitional (R-T) zoning district located off Topaz Lane in the Catawba Springs Township.

CUP #179 Margo Stone, applicant (Parcel ID #74100 & 74099) request for a Conditional Use Permit to accommodate an animal kennel on lot #14 & 15 of the Denver Business Park zoned General Industrial (I-G) located off Denver Drive in the Catawba Springs Township.

ZMA #351 Brody Harkey, applicant (Parcel ID #31312 & 31311) request to rezone two (2) parcels 1.4 and 1.5 acres in size from Residential Single-Family (R-SF) with a Designated

Highway overlay district (D-H) to General Business (B-G D-H) in order to sale as B-G. The parcels are located of NC Highway 16 in the Catawba Springs Township.

ZMA #352 CW Campo, applicant (Parcel ID #72069; PIN #4602-04-64-9980) request to rezone one (1) parcel from Neighborhood Business (B-N) with a Designated Highway overlay district (D-H) to General Business (B-G D-H) to accommodate a boat repair and sales business located off North Pilot Knob Road in the Catawba Springs Township.

ZMA #353 Dean & Melissa Fisher, applicants (Parcel ID #31091; PIN #4604-10-46-1474) request to rezone a .66 acre portion of a 2.83 acre parcel that is zoned Residential Single-Family with a Designated Highway overlay district (R-SF D-H) to Neighborhood Business (B-N D-H). The property is located off NC Highway 16 in the Catawba Springs Township.

ZMA #354 Lincoln County Building & Land Development, applicant (Parcel ID #73775; PIN #4604-00-44-7599) request to rezone a 4.99 acre parcel owned by Patrick Elmore from Conditional Use Light Industrial (CU I-L) with a Designated Highway overlay district (D-H) to General Business (B-G D-H) since applicant did not follow the Conditional Use Permit instead building a commercial building not permitted in the I-G zoning district. The property is located off NC 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, November 24, 2000 and Friday December 1, 2000).

Parallel Conditional Use Rezoning No. 74 – Lloyd Caldwell, applicant:

UPON MOTION by Commissioner Craig, the Board voted unanimously to defer the rezoning of Parallel Conditional Use Rezoning No. 74 – Lloyd Caldwell, applicant, to the January 8, 2001 meeting first on the agenda.

Conditional Use Permit No. 176 – Richard Hunter, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No.176 – Richard Hunter, applicant.

The applicant is requesting a Conditional Use Permit in order to accommodate a land clearing and inert debris landfill. The proposed landfill would be approximately .87 acres in area. The property is zoned Residential Transitional (R-T).

The four (4) parcels, totaling 7.94 acres, are located off Topaz Lane in the Catawba Springs Township. The property is joined on all property lines by properties that are also zoned R-T. The Lincoln County Land Development Plan calls for lower density development in this area. A land clearing and inert debris landfill requires the issuance of a Conditional Use Permit in the R-T zoning district.

Chairman Cochrane opened the Public Hearing on Conditional Use Permit No. 176 – Richard Hunter, applicant.

Chairman Cochrane stated that to establish some rules of procedure for the public hearings, he would like for speakers to hold their comments to no more than three minutes unless the Board is told beforehand that more than three minutes are needed.

Having been sworn by Clerk Amy S. Long, the following information was given.

Richard Hunter stated that he is trying to fill in a spot behind his house to make pasture land and better his property. He stated that this is all he's asking to do.

Commissioner Craig asked where the debris is coming from.

Mr. Hunter stated that it will only be stumps and dirt. He stated that he has a gentleman whose company is going to fill it in for him, he will be the only one dumping, and when he is finished he will make it nice and neat. He stated that he will plant grass over it, and they will fix the road back, there is no gravel on it now, but he will put gravel on the road and make the road nice for the neighbors. Mr. Hunter stated that he has sent a letter stating all this to Barbara Carpenter.

Commissioner Craig asked if Mr. Hunter has anything in place to monitor what is put in there.

Mr. Hunter stated that he had it surveyed and they are going to stay within those boundaries. He stated that as far as he knows Ms. Carpenter will be monitoring it.

Commissioner Craig asked what the procedure was on making sure that only this type material is allowed would go into this fill.

Mr. Lawson stated that they will have to do inspections on it. He stated that they cannot be there everyday to monitor the dumping, and someone could definitely put something in it they were not supposed to. He stated that they do not have the personnel to man these things 24 hours a day. He stated that there will probably be soil tests on it when it's complete.

Commissioner Craig asked if it could be monitored on some type basis before he does any actual covering. He stated that he has been down this road with these landfills when he was here prior and it's not a good thing. He stated that it's best to be upfront with the gentleman.

Mr. Hunter stated that he is willing to do whatever. He stated that the people that will be doing the dumping are landscaping people. He stated that he will work with the neighbors any way he can and do whatever it takes.

Gary Garlow asked how long he supposes this will be in operation.

Mr. Hunter stated that being in the wintertime, he really can't answer that. He stated that he would say realistically six months, but he doesn't think it will take more than a couple months to get it done.

Jerry Geymont asked if Mr. Hunter knows where the materials will be coming from, if it will be inside or outside the county.

Mr. Hunter stated that he believes it is coming from inside the county, over by Lake Norman. He stated that it's not coming from across the country or anything.

Ron Smith asked if the site is capable of being gated.

Mr. Hunter stated that he has a fence around it now, pretty much. He stated that he does not have it all fenced in, but that is what he is working towards.

Gary Garlow asked if it is the applicant's intent to only operate during the daylight hours.

Mr. Hunter stated that this is his intent.

Michelle Jones stated that she is speaking for her mother, Martha Herbert. She stated that she lives on the property, too, with her mom. She stated that they live on the other side of the creek as Mr. Hunter, and three of the lots that he is talking about connect their property. She stated that her main concern is that she has 2 children, and her neighbor has 3 children. She stated that one of the main concerns is that this is on a hill, and the only thing that holds this up from washing down is the trees. She presented pictures to the Board, stating that it is kind of messy to look at. Ms. Jones stated that she has lived there since January 1987 and there was nothing but trees. She stated that they are concerned about what is going to happen, what is going to be dumped into this thing, and if this will continue to be an eyesore. She stated that one thing she will have to dispute is that the applicant said that it will be a landscaping company, and she herself personally followed one of the dump trucks all the way down to Campground Road in Denver. She stated that it was Iredell Construction Company on the side of the truck. She stated that they are concerned about the safety matter.

Jack Sneed stated that he is struggling to understand what the gentleman said about what he is going to do and how he is going to do it. He stated that he has lived there a little more than a year now, and what he's watched the applicant do is anything but take care of the creek bed. He stated that the applicant has driven his bobcat down into the creek bed on more than one occasion, and on one such occasion that he drove the bobcat into the creek bed, he decided to turn it around on his property post, so now his property post is buried. Mr. Sneed stated that he watched him do that. He stated that the creek is just about stopped up with all the silt that is running from the landfill that he started illegally doing, and then only because some of the neighbors called and reported him did he come to get this permit. He stated that he has also followed some of the trucks, and one went toward Mecklenburg County and one headed through Denver, and he quit following once he got into Catawba County.

Gene Hunter stated that Ricky Hunter is his son. He stated that he doesn't know Mr. Sneed, has never heard tell of him, and never seen him. He stated that there is a big gully there that is not a creek, it dries up when it doesn't rain. He stated that it is also the property line. He stated that you can't cross the creek from their property to Mr. Sneed's. Mr. Hunter stated that as far as cutting down a tree on Mr. Sneed's property, they have never been on Mr. Sneed's property. He stated that Iredell Construction has been bringing stuff in there. He stated that they did go and get 7 or 8 loads of gravel to put in there.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Conditional Use Permit No. 176 – Richard Hunter, applicant, closed.

Conditional Use Permit No. 179 – Margo Stone, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 179 – Margo Stone, applicant.

The applicant is requesting a Conditional Use Permit for property owned by Dennis Fischer. The applicant is making this request in order to accommodate an animal kennel. The kennel is proposed on lots 14 and 15 of the Denver Business Park in Denver, NC. The property is zoned General Industrial (I-G) zoning district.

The two (2) parcels total 2.24 acres in size and are located in the Catawba Springs Township. The property is joined on the north, south, and east by properties that are zoned I-G and to the west by R-SF. An animal kennel requires the issuance of a Conditional Use Permit in the I-G zoning district.

Commissioner Craig asked if the Zoning Ordinance allows animal kennels by right in any districts, or if they are all Conditional Use Permits.

Lee Lawson stated that they are all Conditional Use Permits.

Chairman Cochrane asked if any of the adjacent property is developed currently.

Mr. Lawson stated that the park is sparsely developed and the property behind it that is zoned Residential Single Family is not yet developed either.

Gary Garlow asked if there is a home behind it.

Mr. Lawson stated that there is not, and there is no industrial development around it until you get to the front and entrance of the park.

Commissioner Gamble asked the difference between animal kennels and animal shelters.

Mr. Lawson stated that animal shelter if not defined in the ordinance. He stated that animal kennel is defined in the ordinance.

Commissioner Gamble asked if there are any rules about the amount of perimeter that is needed on a kennel arrangement.

Mr. Lawson stated that the only zoning district that has any type of design requirements for an animal kennel is Single Family Residential. He stated that there are the general setback regulations, lot widths, and such, but those are really the only design regulations in an industrial or business district that there are for an animal kennel.

Chairman Cochrane opened the Public Hearing on Conditional Use Permit No. 179 – Margo Stone, applicant.

Having been sworn by Clerk Amy S. Long, the following information was presented.

Margo Stone stated that one of the reasons she wanted to come and talk to the Board was to dispel some of the preconceived notions that people have about boarding kennels. She stated that what they are proposing is to have a dog kennel that is for boarding, not for breeding. She stated that there will not be loose dogs. Ms. Stone stated that she is a Veterinary Technician and she has worked in veterinary medicine for 26 years. She stated that this facility will be brand new, state of the art, air conditioned, and heated. She stated that there is no facility like it that she's found, in looking in about a three county area, that will compare to what they are trying to build. She stated that they are hoping to board dogs and cats and do training, like puppy classes. She stated that the dogs will not be out all the time, and they will have regular operating hours, like 8:00 to 5:30, maybe 8:00 to 12:00 on Saturdays, and closed on Sundays. She stated that there will be facilities for the dogs to be kept indoors, they won't be out barking at night. She stated that it will be a totally sound-proof building. Ms. Stone stated that this area is growing very rapidly, and there is really no facility to board the animals.

Commissioner Craig asked if there will be runners for the dogs to get outside.

Ms. Stone stated that there will be a small building in the front that will house the cattery, kitchen, and little retail area. She stated that the kennels will have guillotine doors, where you can either keep the pets inside or turn them out, depending on the heat, the weather, and whether one's too loud or not. She stated that she understands preconceived notions about kennels.

Commissioner Craig asked if the dogs will be out after night.

Ms. Stone stated that they absolutely would not.

Commissioner Craig asked if they would be in a soundproof facility at night.

Ms. Stone stated that it's state of the art, there's several companies around the country that build pre-fab kennel buildings, and of course that's one of the things most people are

concerned about is noise. She stated that she will be sitting in there too, and will not want to listen to noise anymore than anyone else does.

Commissioner Craig stated that there was some discussion as to what is around the property. He asked if there are homes around the property.

Ms. Stone stated that in the back of the property there is a large hill that goes down and there's an easement with a substation. She stated that there may be homes on the other side of the substation.

Commissioner Craig asked if there are any facilities built at this time, or if they are mainly under construction.

Ms. Stone stated that there are some, and where they are looking to build, there are buildings all the way up to there, and then the park continues from where they want to build. She stated that man who owns the property and some of the lots in the back, when she spoke to him, he didn't have any problem with it, and he's planning to move his business in there.

Commissioner Craig stated that in his personal opinion, the applicant has chosen the right area.

Commissioner Gamble asked if the applicant has considered any limitations on the population of how many dogs she will have.

Ms. Stone stated that it would be set up for 80. She stated that there is no way it would be full all the time, normally the peak times are major holidays.

Commissioner Gamble asked if the applicant would establish a policy on that.

Ms. Stone stated that there wouldn't be room to house over 80 dogs.

Ron Smith stated asked if there will be a fenced area around the perimeter.

Ms. Stone stated that there will be a fence around the perimeter fence completely around the property. She stated that the building will be a prefab metal, but will have a stone front. She showed the Board a picture of a facility similar to the one she is proposing.

Dave Davis stated that he owns lots 19 and 20 and is within 200 feet of the proposed kennel. He stated that his main concern is that the reason that most of them bought the lots, which were more expensive than other industrial parks around the town, was because of the restrictions that were on the property. He stated that he is concerned with the noise, the increase in traffic, and the value of their property decreasing because of what is being proposed.

Max Crawford stated that he owns lots 11 and 12 and runs a composite business and race car manufacturing company. He stated that he ran the composite business in a rural area on Grassy Creek Road, and had 12 people working for him at that establishment. He stated that he moved his company to this industrial park to upgrade his image. Mr. Crawford stated that he manufactures sports cars for an industrial market. He stated that these cars are worth \$500,000, and he has to make himself look very professional. He stated that he put up a 12,000 square foot building, and intends to put up another 12,000 square foot building as his business grows. He stated that he has no real problem with animals, but does not think the type of business he runs is not conducive to animals in that park. He stated that about 70% of the businesses in the park are racing oriented and there is about a 70% occupancy in the park. He stated that he has a friend in Europe that has looked at the park, and since has backed away because of this kennel. He stated that it's basically about an image they are trying to produce.

Joe Glenn stated that he owns a company on lots 9 and 10 called Sponsor Services, and they are in the business of providing marketing services to companies involved in the Nascar circuit and auto racing in general. He stated that the industrial park is not sparsely populated at this point, but is at least 70% full at this point. He stated that he also had an opportunity to buy in parks adjacent to that at a much lower rate, but because of the CC&R's that came with his bid to buy the property, there were numerous articles regarding noise and fumes. He stated that the proposed Conditional Use Permit is an extremely inappropriate use of the property, because he is concerned about the value of his property. He stated that he applauds the young lady about her entrapaneurship, but is concerned about the value of his property going down. Mr. Glenn stated that as far as soundproofing goes, if he's in the business of selling soundproofing, he'll tell you you won't be able to hear a dog bark outside of it.

Commissioner Gamble stated that everyone who's speaking is talking about this on the future of the property. He asked if the dogs will affect this.

Mr. Glenn stated that there are people who are coming into the area looking at possibly purchasing and developing the rest of the property. He stated that if someone comes in and sees the professional buildings, and then sees the two lots with 80 barking dogs, they'll have a problem with that. He stated that he is in the process of developing a plan to expand his property and will have another 80 X 100 going on his property in the next year and a half or so. He stated that he's having a hard time justifying spending that money, increasing the tax base in Lincoln County, when he has something so inconsistent with the use of the property right down the street.

Commissioner Craig asked what type business Mr. Glenn does.

Mr. Glenn stated that he owns a marketing company called Sponsor Services. He stated that they manage the sponsors on-site involvement in Nascar and Indy racing, and typically uses the property to house promotional materials, which are then loaded onto trucks and trailers that are on-site to manage the sponsorship involvement.

Commissioner Craig asked if Mr. Glenn's business makes any noise.

Mr. Glenn stated that his business does not make any noise.

Commissioner Craig asked if Mr. Glenn can hear the fabricator down the street.

Mr. Glenn stated that no, everybody keeps their doors closed pretty much. He stated that in the middle of the summer if the fabricator has his door open, he can hear a grinder everyone in a while. He stated that a grinder is one thing, 80 dogs is another.

Tim Suggs stated that he owns lots 23, 24, and 25 and has a fabricator shop. He stated that they do make noise and they do keep their doors shut. He stated that he is not opposed to a dog kennel, but this is a dead end street, and now the traffic is down to 18-wheelers coming in delivering steel and things of that nature. He stated that at 5:00 trying to get out onto 16 is murder. Mr. Suggs stated that safety of families coming down to a dog kennel, bringing their pets in and out of there, sometimes you might take a chance trying to get out onto 16 and it could be fatal. He stated that everybody knows how many wrecks there are on 16.

Rick Howard stated that he owns the lot beside the proposed kennel, lot 13. He stated that he is a dog lover, and has his own. He stated that the reason he bought the lot was to put a racing shop on it, image is everything, sponsorships are big and large. He stated that basically having a dog kennel beside his race shop would probably not be what a sponsor would like to see. He stated that if he cranks up the motor in one of those race cars, he wonders what that will do to the dogs. He stated that there are nice shops there and nice shops going in, and this just doesn't fit the location.

Margo Stone stated that she doesn't know what kind of conceived notions these people have of a dog kennel, but this is a million dollar business that they are talking about putting in there. She stated that she will be glad to talk to these gentlemen and show them the building she is proposing.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Conditional Use Permit No. 179 – Margo Stone, applicant, closed.

Zoning Map Amendment No. 351 – Brody Harkey: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 351 – Brody Harkey, applicant.

The applicant is requesting to rezone two (2) parcels from Residential Single Family (R-SF) with a Designated Highway overlay district (D-H) to General Business (B-G) with a D-H. The applicant wishes to rezone these properties in order to sale as B-G.

The 1.4 acre parcel and the 1.5 acre parcel are located off NC Highway 16 in the Catawba Springs Township. The parcels are joined to the north and west by properties that are zoned B-N and to the south by R-SF.

Chairman Cochrane opened the Public Hearing on Zoning Map Amendment No. 351 – Brody Harkey, applicant.

Brody Harkey stated that he is here tonight to ask the Commissioners to rezone his two tracts of land at 2590 Highway 16 to General Business. He stated that currently the land is in an estate, in which he is an heir, and the heirs have decided that the best use for their property is to sell it. He stated that they have had the land on the market for about six months, and all the interest they have had in the land has been for general business. He stated that most people that are interested do not want to go through the steps to change the zoning. He stated that the area is going in the general business district.

Commissioner Craig asked about the house that is on the property.

Mr. Harkey stated that if they sell the property, they plan on moving the house to another tract of land.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Zoning Map Amendment No. 351 – Brody Harkey, applicant, closed.

Zoning Map Amendment No. 352 – CW Campo, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 352 – CW Campo, applicant.

The applicant is requesting to rezone one (1) parcel from Neighborhood Business (B-N) with a Designated Highway overlay district (D-H) to General Business (B-G) with a D-H. The applicant wishes to rezone this property to accommodate a boat repair and service business.

The 2.586 acre parcel is located off North Pilot Knob Road in the Catawba Springs Township. The parcel is joined to the north and west by properties that are zoned B-N DH and to the south by R-T.

Chairman Cochrane opened the Public Hearing on Zoning Map Amendment No. 352 – CW Campo, applicant.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing on Zoning Map Amendment No 352 – CW Campo, applicant, closed.

Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicants: Shane Steward, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicants.

The applicants are requesting to rezone a .66 acre portion of a 2.83 acre parcel, which is currently a multi-zoned lot, from Residential Single-Family (R-SF) with a Designated Highway overlay district (D-H) to Neighborhood Business (B-N) with a D-H. The applicant wishes to rezone this property in order to accommodate an office type business.

The 2.83 acre parcel is located off NC Highway 16 in the Catawba Springs Township. The parcel is joined to the north and west by properties that are zoned R-SF DH, to the east by B-G DH, and to the south by R-SF & B-N DH.

Chairman Cochrane opened the Public Hearing on Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicant.

Dean Fisher stated that he is the current property owner and this is just to follow through on a stated plan. He stated that when they originally approached zoning roughly 18 months ago, they requested that this entire 2.84 acre parcel be rezoned N-B, but on the recommendation of zoning board, they also wanted to reside in the current residence, so the zoning board suggested that they subdivide a portion and leave that R-SF. He stated that they are just following through to convert the entire property to Neighborhood Business.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing on Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicants, closed.

Zoning Map Amendment No. 354 – Building and Land Development, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Zoning Map Amendment No. 354 – Building and Land Development, applicant.

Building & Land Development is proposing to rezone a parcel 4.99 acres in size owned by Patrick Elmore from Conditional Use Light Industrial (CU I-L) with a Designated Highway overlay district (D-H) to General Business (B-G) D-H. The property was initially rezoned on March 2, 1998 as a Parallel Conditional Use to accommodate a racing shop. Per section 6.4 of the zoning ordinance, *if a Conditional Use Permit is issued in relation to the rezoning of a property to Parallel Conditional Use District, the property may only be used for the development for the Conditional Use Permit as approved.* Currently, the parcel contains a multi-tenant building oriented to retail/office use with one tenant space occupied.

The parcel is located off NC Highway 16 in the Catawba Springs Township. The parcel is joined to the north, south, and west by properties zoned CU I-L D-H and B-N D-H and to the east by properties zoned B-G and R-SF.

Commissioner Craig asked if this is the building is already built.

Mr. Lawson stated that this is correct. He stated that when someone does a Parallel Conditional Use Rezoning, it's based upon a plan they submit, and it has to be a use within the district they are trying to get as well. He stated that the plan was not followed, it is a retail shop, not a racing shop, so it would have to be rezoned by the Commissioners back to a general zoning district.

Chairman Cochrane opened the Public Hearing on Zoning Map Amendment No. 354 – Building and Land Development, applicant.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing on Zoning Map Amendment No. 354 – Building and Land Development, applicant, closed.

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

Chairman Cochrane called for a short recess.

Chairman Cochrane called the meeting back to order.

Resolution for Centralina Council of Governments (COG) to receive State Funds:

County Manager Stan Kiser stated that this is a Resolution that is required for Lincoln County to pass to be eligible to receive a portion of the state funding to go to the Centralina Council of Government.

**RESOLUTION
BY
LINCOLN COUNTY**

WHEREAS, Lead Regional Organizations have established productive voluntary working relationships with municipalities and counties across North Carolina; and

WHEREAS, the 1999 General Assembly recognized this need through the appropriation of \$900,000 for each year of the biennium to help the Lead Regional Organizations assist local governments with grant applications, economic development, community development, and to support local industrial development activities and other activities as deemed appropriate by their local governments; and

WHEREAS, these funds are not intended to be used for payment of member dues or assessments to a Lead Regional Organization or to supplant funds appropriated by the member governments; and

WHEREAS, in the event that a request is not made by Lincoln County for release of these funds to the Lead Regional Organization, the available funds will revert to State's general fund; and

WHEREAS, in Region F, funds in the amount of \$55,000 will be used to/for preparation of HOME and CDBG applications, land use corridor studies, hosting of regional seminars/conferences, regional data center, regional building permit tracking system, and other economic development activities that may deem appropriate;

NOW, THEREFORE BE IT RESOLVED, that the Lincoln County Board of Commissioners request the release of its share of these funds, \$2885.93, to Centralina Council of Governments at the earliest possible time in accordance with the provisions of state laws.

Witnessed this the 4th day of December, 2000.

Original Signature of Mayor or Official

Signature of Witness

Title

Title

Seal

A MOTION by Commissioner Craig, seconded by Commissioner Gamble, to approve the Resolution for Centralina Council of Government to receive their state funds.

Commissioner Gamble made an amendment to the motion that we get our prorated share.

Commissioner Craig accepted the amendment.

VOTE: Unanimously approved.

Resolution to Approve Waiver of Bidding Requirements to Purchase an Ambulance: Stan Kiser, County Manager, stated that this was placed on the agenda at the last meeting and required the Board to publish notice of it. He stated that the Resolution will need to be approved by the Board and allows us to piggyback on a previous bid process that was done in Floyd County, Virginia to purchase an ambulance. Mr. Kiser stated that the money is in the CIP fund.

Commissioner Gamble stated that the benefit in this is to get the price that was negotiated before.

Commissioner Craig stated that this piggybacking is new to him. He asked if we are benefiting as much as we can by doing it in this process, or is the old way of bidding out things not working now.

Mr. Kiser stated that we have done this once before with a new garbage pickup that was purchased about six months ago.

Leon Harmon stated that the main advantage is that the other local government has already gone through the formal bidding process and evaluated the bids. He stated that they thought it was a good bid. He stated that Ron Rombs, Emergency Management Director, was working with a company and he thinks it's a good deal. Mr. Harmon stated that the county can always go through the formal bid process, but this is a little more expedient way of purchasing it.

Chairman Cochrane asked for the recommendation of the County Manager.

Mr. Kiser stated that his recommendation was to approve the Resolution to purchase the ambulance.

RESOLUTION TO APPROVE WAIVER OF
BIDDING REQUIREMENTS TO PURCHASE AMBULANCE

WHEREAS, Lincoln County operates an emergency medical system to serve residents of Lincoln County; and

WHEREAS, in order to operate this emergency medical system efficiently, it is necessary to purchase ambulances and other associated equipment; and

WHEREAS, Lincoln County has a need to purchase a new ambulance to transport patients to medical care facilities; and

WHEREAS, within the 12 months previous to the date of this resolution, Floyd County, Virginia, a political subdivision of the state of Virginia, after public, formal bids in a process substantially similar to that required by Article 8 of Chapter 143 of the North Carolina General Statutes, approved the purchase of a new ambulance from Northwestern Emergency Vehicles of Jefferson, North Carolina, in the amount of \$81,767; and

WHEREAS, Northwestern Emergency Vehicles is willing to make available to Lincoln County the same pricing as the contract approved by Floyd County, Virginia, in the amount of \$81,767; and

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

WHEREAS, such notice of intent was published in the *Lincoln Times-News* at least 10 days prior to the date of this resolution;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVE:

1. That it is in the best interest of Lincoln County to waive the requirements of Article 8 of Chapter 143 of the North Carolina General Statutes for the purchase of an ambulance on the terms outlined herein.
2. That the purchase of an ambulance from Northwestern Emergency Vehicles in the amount of \$81,767 is hereby approved as authorized by N.C.G.S. 143-129.

Adopted this 4th day of December, 2000.

LINCOLN COUNTY

By: _____
Chairman
Board of Commissioners

ATTEST

Amy S. Long, Clerk to the
Board of Commissioners

A MOTION by Commissioner Gamble to follow the County Manager's recommendation and approve the Resolution to Approve Waiver of Bidding Requirements to Purchase an Ambulance.

Mr. Kiser stated that the money is in the CIP fund.

Vote: Unanimously approved.

2001 Meeting Schedule: County Manager Stan Kiser stated that the only meeting that is required to be on a Monday is the first meeting in December, although it has always been tradition in this county to meet on Mondays.

Jeff Taylor stated that the only other legal requirement is that the Board must have at least one regular meeting per month, and the Board can determine when the regular meeting is.

Commissioner Gamble asked the County Manager if the Board needs to meet twice per month.

Mr. Kiser stated that he believes so, because we never know the extent of the business. He stated that two years ago, there was a meeting that started in December that started at 6:30 p.m. and ended sometime after midnight. He stated that this also happened with the January meeting. He stated that by having two meetings, it is spread out.

Commissioner Craig stated that he would be in favor of two meetings per month.

Commissioner Gamble stated that he thinks the idea of the first Monday of the month is a good idea, but thinks there should be another meeting that should not be the same hours. He stated that he thinks the Chairman should form a committee to decide on the hours and the time of the meetings.

Chairman Cochrane asked Commissioners Craig and Anderson to be on this committee and come back to the Board with a recommendation for meeting dates and times.

Board of Variance Composition: Jeff Taylor, County Attorney, stated that as he understands it, everyone has resigned from the Board of Variances and Appeals, and Commissioner Saine has indicated her intent to resign. He stated that technically there is a board in existence, there just aren't any members on it. He stated that the Board needs to find five individuals who are willing to sit as the Board of Variances and two alternates. He stated that those individuals will be appointed to fill the unexpired terms. Mr. Taylor stated that there are three unexpired terms that expire December 31, 2002, and two unexpired terms that will expire December 31, 2001. He stated that there is one vacancy for an alternate. He stated that the Board will not necessarily have to create a board, there is a framework in existence.

Chairman Cochrane appointed Commissioner Craig to research this and come up with recommendations for membership on the Board of Variance or Adjustment.

Jeff Taylor stated that if the Board wants to change the name back to Board of Adjustment for the sake of convenience and clarity, it would be appropriate at some point to make a text amendment to switch it back to Board of Adjustment.

A MOTION by Commissioner Craig, seconded by Commissioner Anderson to instruct staff to rename this as the Board of Adjustment and bring it back to the Board.

VOTE: Unanimously approved.

Other Business: Jeff Taylor stated that he would like to give a follow up to a conversation he had last week with the Chairman concerning what responsibilities can be assigned to the Board of Adjustment. He stated that there was some discussion of possibly assigning Conditional Use Permits to that board. He stated that the Board of Commissioners will have to make any legislative decisions that are made, such a pure zoning map amendment, or a pure zoning text amendment, and because of the fact that there is a combination, Parallel Conditional Uses will have to stay with the Board. He stated that one of the disadvantages is that by state law, the Board of Adjustment requires a 4/5 vote. He stated that it requires that there are 5 members and 4 of them must vote on any decision that the Board of Adjustment makes. Mr. Taylor stated that this is a higher standard on a Conditional Use Permit than the Board has now, which is just a simple majority. He stated that the Board could let the Planning Board handle the Conditional Use Permits and they have some tentative text drafted either way the Board wants to do it. Mr. Taylor stated that the Planning Board has 9 members.

Chairman Cochrane called for a brief recess.
Chairman Cochrane called the meeting back to order.

Recommendations from the Planning Board – December 4, 2000:

Conditional Use Permit No. 176 – Richard Hunter, applicant:

Lee Lawson, Land Use Coordinator, stated that the Planning Board unanimously (7 –0) recommended deferring until February.

A **MOTION** by Commissioner Craig to defer until February in accordance with the Planning Board's recommendation.

VOTE: Unanimously approved.

Conditional Use Permit No. 179 – Margo Stone, applicant: Lee Lawson, Land Use Coordinator, stated that that Planning Board voted 4 – 3 to recommend approval with the following conditions: 1 – Applicant must follow all applicable zoning design requirements, 2 - the rear setback needs to be 50' from the lot line, 3 – Applicant needs to follow soundproof design as far as the guidelines of the building the applicant presented, and 4 – Animals must be in at night.

Chairman Cochrane presented the findings of fact for Conditional Use Permit No. 179 - Margo Stone, applicant.

A **MOTION** by Commissioner Gamble to address the findings of fact separately, and not as a group.

Vote: Unanimously approved.

RECOMMENDATION ON FINDINGS OF FACT
FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP#179 Date: December 4, 2000

Applicant's Name: Margo Stone
Address: 4278 Anderson Mountain Road
Maiden, NC 28650

Property Owner's Name: Dennis Fisher
Address: 2923 Symphony Woods Dr.
Charlotte, NC 28213

Property Location: Denver Business Park, Denver Drive

Existing Zoning: I-G

Proposed Conditional Use: Boarding kennel with facilities for training, grooming and retail

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. There should be no adverse effects on the Industrial (I) properties and there should be no dangerous emissions or waste to materially endanger the public health of the area.
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. The use is listed as conditional in Section 10.12.2-E of the Lincoln County Zoning Ordinance.
Motioned by Commissioner Saine. 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. The use will not substantially injure the value of surrounding property because it is located in an industrial park and the Residential properties have been abutting the industrial park before the request.
Motioned by Commissioner Craig.
Commissioner Gamble stated that he is going to have to be forced to vote no, because the gentlemen that spoke are all reflecting a feeling of injury to their property values.
Vote: 4 – 1 AYES: Cochrane, Saine, Craig, Anderson
NOES: Gamble
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. The use is in harmony with the surrounding development due to the reason that the purpose of the industrial park is commercial development, and an Animal Kennel is a commercial enterprise.
Motioned by Commissioner Craig.
Vote: 4 – 1 AYES: Craig, Cochrane, Saine, Anderson
NOES: Gamble

After having held a public hearing on December 4, 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. 179 – Margo Stone, applicant, with the following conditions:

1. Applicant must follow all applicable zoning design requirements,
2. The rear setback needs to be 50' from the rear lot line,
3. Applicant needs to follow soundproof design as far as the guidelines of the building the applicant presented, and
4. Animals must be in at night

Vote: Unanimously approved.

Chairman

Date

Lincoln County Board of Commissioners

Zoning Map Amendment No. 351 – Brody Harkey, applicant:

Shane Stewart, Zoning Administrator, stated that the Planning Board unanimously (7 – 0) recommended approval.

A MOTION by Commissioner Craig to accept the Planning Board's recommendation to rezone this property from Residential Single Family with a Designated Highway overlay to General Business (B-G DH) to sell as B-G.

VOTE: Unanimously approved.

Zoning Map Amendment No. 352 – CW Campo, applicant:

Shane Stewart, Zoning Administrator, stated that the Planning Board's recommendation was unanimous (7-0) approval.

A MOTION by Commissioner Saine to approve Zoning Map Amendment No. 352, based on the Planning Board's recommendation.

Vote: Unanimously approved.

Zoning Map Amendment No. 353 – Dean and Melissa Fisher, applicants: Shane Stewart, Zoning Administrator, stated that the Planning Board's recommendation was unanimous (7-0) approval.

A MOTION by Commissioner Anderson to approve Zoning Map Amendment No. 353, based on the Planning Board's recommendation.

Vote: Unanimously approved.

Zoning Map Amendment No. 354 – Building and Land Development, applicant:

Shane Stewart, Zoning Administrator, stated that the Planning Board's recommendation was unanimous (7-0) approval.

A MOTION by Commissioner Craig to accept the recommendation of the Planning Board and approve Zoning Map Amendment No. 354.

Vote: Unanimously approved.

Commissioner Gamble gave a report on a luncheon meeting he attended with the Hospital Board.

Recess: UPON MOTION by Commissioner Craig, the Board voted unanimously to defer until Thursday, December 7, 2000 at 3:30 p.m.

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners