

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 1, 1999

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on November 1, 1999 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 5:30 PM.

Commissioners Present:

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

Planning Board Members Present:

Mike Baker, Chairman
Gary Garlow, Vice-Chairman
Mike Allred
James Funderburk
Phil Hunt
Dean Lutz
Jerry Geymont
Stanley Roseboro

Others Present:

Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of Building and Land Development
Tina Clark, Development Technician

Call to Order: Chairman Hallman called the meeting to order, stating that the County Manager was not present due to the fact that he was in class at the Institute of Government.

Adoption of Agenda: **UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to adopt the agenda as follows, with the additions in bold.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARINGS

NOVEMBER 1, 1999

- 5:30 PM Call to Order
1. 5:30 PM Adoption of Agenda
 2. 5:35 PM Approval of Minutes
- October 18, 1999
 3. 5:40 PM Land Use Plan Presentation by Walter Fields
 4. 6:30 PM New Business / Advertised Public Hearings

Conditional Use Permit No. 164 – SBA Towers, Inc., applicant, Request for a Conditional Use Permit in order to accommodate a telecommunication/transmission tower in excess of sixty (60) feet in height. The property is owned by Thomas and Theodosia Moore and is located at 3510 Ironton Place in Iron Station. The property is located in the Transitional Residential (R-T) zoning district.

Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicant. Request to rezone a 26.32 acre tract and a 40.615 acre tract owned by the applicants from Residential Single Family (R-SF) to Rural Residential (R-R) in order to sell lots for doublewide mobile homes. The parcels are located on Fairview School Road in the North Brook Township.

Zoning Map Amendment No. 323 – Sean L. Earnest, applicant. Request to rezone 1.149 acre tract owned by Cliff Brown from Residential Single Family (R-SF) with a Designated Highway (D-H) overlay to Neighborhood Business (B-N) with a Designated Highway (D-H) overlay for future retail use. The parcels are located on Hwy 16 and Malibu Pointe Lane in the Catawba Springs Township.

Zoning Map Amendment No. 324 – Ben Singletary, applicant. Request to rezone a 14.52 acre tract owned by the applicant from Residential Single Family (R-SF) to Transitional Residential (R-T) to accommodate a singlewide mobile home. The parcels are located on Crouse Road in the Howards Creek Township.

5. 7:05 PM Presentation of Resolution to Proclaim November as Home

and Hospice Care Month – Maggie Dollar

6. 7:15 PM Resolution Requesting Release of Centralina Council of Government Funds
7. 7:30 PM Public Hearing for Law Enforcement Block Grants – Bill Beam
8. 7:30 PM Public Hearings for Tax Revaluation – Madge Huffman
9. 7:50 PM Resolution for Placing 10 Commandments in Schools
10. 7:55 PM Recommendations from the Planning Board – November 1, 1999
 - Conditional Use Permit No. 164 – SBA Towers, Inc., applicant.
 - Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicant.
 - Zoning Map Amendment No. 323 – Sean L. Earnest, applicant.
 - Zoning Map Amendment No. 324 – Ben Singletary, applicant.
11. 8:15 PM East Lincoln Development, LLC Letter of Credit
- 11a. **Appointments**
- 11b. **Funding of the Deputy Fire Marshal Position**
12. 8:25 PM Other Business

Adjourn

Approval of Minutes: Chairman Hallman stated that the Clerk has made slight changes to the layout of the minutes to conform with other counties.

UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the minutes, tentatively approving the format and having the freedom to suggest changes or to request information subject to getting used to the format.

Land Use Plan Presentation: Walter Fields, President of Walter Fields Group and Brad Davis, Principal of Land Design Inc., gave a presentation concerning the Land Use Plan.

Chairman Hallman asked if they had a copy of a Land Use Plan that could be left in the office for people to look at. He also asked if they had experience in rural areas.

Walter Fields stated that both he and Mr. Davis do have experience in rural areas.

Presentation of Resolution to Proclaim November as Home and Hospice Care Month – Maggie Dollar: UPON MOTION by Commissioner Waters, the Board unanimously approved the following Home and Hospice Care Month Proclamation.

**HOME & HOSPICE CARE MONTH 1999
A PROCLAMATION**

WHEREAS, in-home health, hospice, and community based services provide for an individual's health and social needs across the continuum of life-compassionate care which serves expectant mothers, infants, children, adults, the disabled and elderly, and also provides love, comfort, and support at the end of life; and

WHEREAS, in-home health and community based services enable North Carolina's citizens to access a wide variety of quality health and social services, including preventive care, acute care, sustainable long-term care and palliative care; and

WHEREAS, these services include care provided by home health agencies, licensed home care agencies, hospice agencies, adult day care and adult day health care facilities, and home medical equipment companies; and

WHEREAS, in-home health and community based services strengthen the family bond and support families as they care for their loved ones at home lessening caregiver burnout and unnecessary placement in more costly institutional settings; and

WHEREAS, in-home health and community based services build upon a strong tradition of care and compassion, striving to keep families intact and responsible while preserving an individual's independence and dignity in the setting of their choice;

NOW THEREFORE, THE BOARD OF COMMISSIONERS, do hereby proclaim November 1999, as **"HOME and HOSPICE CARE MONTH"** in Lincoln County, North Carolina, and urge our citizens to celebrate all in-home health and community based services.

This the _____ day of _____, 1999.

James A. Hallman, Chairman
Lincoln County Board of Commissioners

Amy S. Long, Clerk to the Board
Lincoln County Board of Commissioners

Resolution Requesting Release of Centralina Council of Government Funds: UPON MOTION by Commissioner Gamble, the Board voted unanimously to approve the following Resolution Requesting Release of Centralina Council of Government Funds.

**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 \$2726.67, to Centralina Council of Governments at the earliest possible time in accordance with the provisions of state laws.

Witnessed this the 1st day of November, 1999.

James A. Hallman, Chairman

Amy S. Long, Clerk to the Board

Resolution for Placing 10 Commandments in Schools: Chairman Hallman presented the following Resolution, stating that this Resolution has already been passed by a number of counties.

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

A RESOLUTION IN SUPPORT
OF
THE TEN COMMANDMENTS

WHEREAS, violence has increased dramatically in our society and our schools, and

WHEREAS, the passage of new laws to stop violence has had little, if any, beneficial effect and has diminished the personal liberty of law-abiding citizens; and

WHEREAS, freedom and order can best be maintained if our children are taught to respect the lives, person, and property of others; and

WHEREAS, there is no better code of moral conduct than *The Ten Commandments* and many of our laws have their origin in *The Ten Commandments*; and

WHEREAS, the phrase, "separation of church and state" never appears in the *Constitution* and the *Bible* was the most frequent source of quotations during the Constitutional Convention.

NOW THEREFORE, BE IT RESOLVED, that the Lincoln County Board of Commissioners, without reservation, supports legislation to display *The Ten Commandments* in our schools and further calls upon the Lincoln County Board of Education to join the county with support of this resolution.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to each U.S. Representative and Senator from the great State of North Carolina, to each North Carolina State Senator and Representative and to each of the other ninety-nine County Commissions in North Carolina.

This the _____ day of _____, 1999.

James A. Hallman, Chairman
Lincoln County Board of Commissioners

Amy S. Long, Clerk to the Board
Lincoln County Board of Commissioners

Commissioner Gamble stated that he read an editorial in the Charlotte Observer yesterday, that said that this Resolution to put the Ten Commandments in the schools was blatantly unconstitutional. He stated that the Board ought to think more than once about passing a resolution that is blatantly unconstitutional.

Chairman Hallman stated that the Resolution is only telling the Legislative Delegation in Washington that the Board supports Legislation to display the Ten Commandments.

Commissioner Waters stated that he felt the Board should receive public comments on this.

Chairman Hallman opened the floor for public comments.

Being no one wishing to speak, Chairman Hallman declared the public comments closed.

Commissioner Saine stated that by displaying the Ten Commandments in the schools, it is offering the students an opportunity to look at it. She stated that it is not forcing any religion or religious philosophies on anyone.

UPON MOTION by Commissioner Saine, the Board voted 3 – 2 (AYES: Hallman, Brotherton, Saine; NOES: Waters, Gamble) to approve the Resolution in Support of the Ten Commandments.

East Lincoln Development, LLC Letter of Credit:

Commissioner Brotherton asked to be excused because he has a financial interest in this matter.

UPON MOTION by Commissioner Saine, the Board voted unanimously to excuse Commissioner Brotherton from voting on this matter.

Kelly Atkins, Director of Building and Land Development, stated that the Letter of Credit is in the amount of \$27,500 for the improvements of the subdivision. This is so the plat can be approved, pending the Letter of Credit that Lincoln County will hold until such improvements have been tested and approved by the County. Mr. Atkins stated that the only thing that has not been done is the testing of the water.

UPON MOTION by Commissioner Gamble, the Board voted unanimously (4 – 0, Commissioner Brotherton excused) to approve the Letter of Credit.

Commissioner Waters stated that he objects to having information run by him at the last minute, and feels everything needed should be in the Board packets. He stated that if the information is not in the office on time, the item should be taken off the agenda.

New Business: Advertised Public Hearings: Chairman Hallman announced that this was the date, Monday, November 1, 1999 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on October 23 and 30, 1999.

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 1, 1999 (note time change) to consider the following zoning related matters:

CUP #164 SBA Towers, Inc., applicant: A request for a Conditional Use Permit in order to accommodate a communication facility (monopole tower) that will be 190' in height, on property owned by Thomas and Theodosia Moore. This property is located in the Residential Transitional (R-T) zoning district. This property is located off Highway 27 East, on Ironton Place in the Ironton Township.

ZMA #321 James and Frankie Godfrey, applicant: A request to rezone 26.32 and 40.615 acres from Residential Single-Family (R-SF) to Transitional Residential (R-T). This property is located off of Fairview School Road in the North Brook Township.

ZMA #323 Sean L. Earnest, applicant: A request to rezone 1.340 acres from Residential Single-Family (R-SF) (D-H) to Neighborhood Business (B-N) (D-H). This property is located at the intersection of Highway 16 North and Malibu Point Ln. in the Catawba Springs Township.

ZMA #324 Ben J. Singletary, applicant: A request to rezone 14.519 acres from Residential Single-Family (R-SF) to Residential Transitional (R-T). This property is located on the Crouse Road in the Howards Creek Township.

Chairman Hallman stated that Conditional Use Permit No. 164 has been deferred by the applicant, and Zoning Map Amendment 323 has been withdrawn.

Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicant: Tina Clark, Development Technician, presented the following information concerning Zoning Map Amendment No. 321.

The applicant is requesting to rezone a 26.32 acre tract and a 40.615 acre tract owned by the applicants from Residential Single Family (R-SF) to Rural Residential (R-R) in order to sell lots for doublewide mobile homes.

Chairman Hallman asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicant.

Richard Murnan pointed out on the map where his property is located. He stated that he has a problem with the land being rezoned to Rural Residential, because Rural Residential allows for single-wide mobile homes. He stated that he has no objection to doublewides. His fear is that the land could turn into a trailer park.

Dean Godfrey stated that he has a business interest in this property. He stated that the property right next to this is zoned R-R. He stated that the people in R-R could put trailer parks on their land. Mr. Godfrey stated that he does not plan on putting in a trailer park, he plans on cutting out five lots from the forty-acre tract and one lot from the twenty eight-acre tract.

John Black stated that the Godfrey's are his neighbors and friends and it is with a heavy heart that he stands here in opposition to something they want to do. He presented a petition to the Board. He stated that they feel the zoning is correct for the area. He asked respectfully that the Board not change the zoning. Mr. Black asked anyone in the audience that is against this zoning map amendment to stand.

James Godfrey stated that he is the owner of the property. He stated that he does not feel like his neighbors should tell him what to do with his land. He stated that there are already single and doublewide mobile homes in the area.

G. T. Kirby stated that he lives right across the road from Mr. Godfrey. He stated that he lives in a doublewide. He stated that he does not feel he has the right to tell Mr. Godfrey what he should be able to do with his land when Mr. Godfrey's probably owned the land longer than he's been alive.

Skip Locke stated that he is a neighbor of the Godfrey's. He stated that he believes their intentions are good, but once the zoning is changed to R-R, anything can happen.

Frankie Godfrey stated that she has lived in Lincoln County a number of years. She stated that she was raised on the farm that she lives on now. She stated that under no circumstance would she see her dad's land chopped up. She stated that they need equipment, and would like to sell the property to buy some equipment.

Penne Lingerfelt stated that she was representing Alma Canipe, who is opposed to this rezoning.

Brenda Cook stated that she owns property adjoining both sides of the Godfrey's. She stated that the Godfrey's asked the Zoning Board for doublewides only. They could not get this. They did not ask, nor do they want the land zoned for single-wides. She stated that she has no objections to doublewides or modular homes.

Jackie Kirby stated that she was raised in a trailer park in Charlotte, and certainly is not trash. She stated that she would prefer doublewides and takes Mr. Godfrey's word.

Dean Godfrey stated that no neighbors came to him with this petition. He stated that the people who were behind the petition live in the R-R district. He asked why he was discriminated against, and not allowed to put his property in the R-R district.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicants, closed.

Zoning Map Amendment No. 324 – Ben Singletary, applicant: Tina Clark, Development Technician presented the following information concerning Zoning Map Amendment No. 324.

The applicant is requesting to rezone a 14.52 acre tract owned by the applicant from Residential Single Family (R-SF) to Transitional Residential (R-T) to accommodate a singlewide mobile home.

Chairman Hallman asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 324 – Ben Singletary, applicant.

Cindy Caldera stated that they own the property in front of the applicant's property. She stated that they oppose a single wide mobile home there. She stated that they were here three years ago to ask for a three month permit to put a single-wide in behind the home they bought and were turned down. She stated that they would like it to stay as is, with no more mobile homes in the area.

Victor Caldera stated that if someone wanted to put in a single-wide just until they could build a house, he would not have any problems.

Ben Singletary stated that he only wants to put a trailer on the land for a limited time. He stated that he plans on building a house just as soon as he can.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Map Amendment No. 324 – Ben Singletary, applicant, closed.

Chairman Hallman called for a five minute recess.
Chairman Hallman called the meeting back to order.

Presentation of Resolution to Proclaim November as Home and Hospice Care

Month – Maggie Dollar: Maggie Dollar presented the following information concerning the previously adopted resolution. She stated that Home Health and Hospice are both related services that help people be able to stay in their own homes. She stated that they appreciate the support the Commissioners have given over the years.

Appointments: **UPON MOTION** by Commissioner Saine, the Board voted unanimously to appoint and reappoint the following individuals.

Appoint:
Jury Commission -- Trina Brown

Reappoint:
Child Fatality Prevention Team – Rebecca Rhoney

Deputy Fire Marshal Position: Commissioner Brotherton stated that at some point a Deputy Fire Marshal was employed by Lincoln County. The original intent of that was when the capacities for different facilities were being established. He stated that he does not know if it was intended for a full time position or not. Commissioner Brotherton stated that he was opposed to funding that position prior to the adoption of the budget. He stated that at the present time, the Deputy Fire Marshal has made known his intent to leave the position in a letter of resignation. The Building Inspections Department of this County has not had an additional Inspector added in over five years. Commissioner

Brotherton stated that the Building Inspector and Deputy Fire Marshal have the same qualification requirements with the exception of a six to eight week fire investigation course. Commissioner Brotherton stated that he feels the money would be much better spent if the Board eliminates the job as Deputy Fire Marshal and transfers it to the Inspections Department and add another Building Inspector.

A MOTION by Commissioner Brotherton to eliminate the Deputy Fire Marshal Position and add a Building Inspector Position.

Discussion:

Commissioner Waters stated that it seems to him like the Board is doing the County Manager's job. He stated that he does not believe the Board should be micromanaging the County Manager.

Commissioner Gamble stated that he would like to make a substitute motion to delay this until another month and have the County Manager come here and tell the Board where he stands on this.

Commissioner Brotherton stated that applications were taken for this job, and he feels the position should be eliminated before interviews begin and someone is hired.

The Board voted unanimously to eliminate the Deputy Fire Marshal Position and add a Building Inspector Position.

Public Hearing for Law Enforcement Block Grants: Chairman Hallman stated that the Block Grant is for \$15,243.

Chairman Hallman opened the Public Hearing for Local Law Enforcement Block Grant Program for Fiscal Year 1999.

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

Public Hearings for Tax Revaluation:

Chairman Hallman opened the Public Hearing for the Tax Revaluation.

Madge Huffman gave a summary of the Schedule of Values.

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

Other Business: Commissioner Waters stated that he would like the Board to talk about funding the school construction.

Chairman Hallman stated that the Board had a set of procedures from the Bond Council. He stated that the Board would probably need a new set of guidelines from the Bond Council.

Leon Harmon stated that the Local Government Commission approved a referendum up to \$36 million.

A MOTION by Commissioner Gamble to vote on the issue of bonding for new school construction, to fall in place in a reasonable time to satisfy bond council, so we can move on with this vote, and move on with building new schools.

Leon Harmon presented the Board with copies of the following Resolution.

RESOLUTION RELATING TO THE
AUTHORIZATION AND ISSUANCE OF SCHOOL BONDS
OF THE COUNTY OF LINCOLN, NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina (the "County") is considering authorizing the issuance of approximately \$36,000,000 School Bonds of the County for the purpose of providing funds, together with any other available funds, for financing school improvements in the County, including paying expenses related thereto;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners, as follows:

Section 1. The Board of Commissioners hereby finds and determines in connection with authorizing the issuance of such bonds that (i) THE ISSUANCE OF SUCH BONDS IS NECESSARY OR EXPEDIENT FOR THE County, (ii) the proposed principal amount of such bonds is adequate and not excessive for the proposed purpose of such issue, (iii) the County's debt management procedures and policies are good and the County's finances are managed in strict compliance with law, (iv) any increase in taxes necessary to service such bonds will not be excessive and (v) under current economic conditions such bonds can be marketed at a reasonable interest cost to the County.

Section 2. Leon Harmon, Finance Director, is hereby designated as the representative of the County to file an application for approval of such bonds with the Local Government Commission of North Carolina and to employ bond counsel and any other experts as may be advisable in connection with the authorization and issuance of such bonds; and all actions heretofore taken by the Finance Director and any other officers of the County relating to such matters are hereby approved, ratified, and confirmed.

Section 3. This resolution shall take effect immediately upon its passage.

A MOTION by Commissioner Gamble to withdraw his previous motion, and to incorporate the wording and thought of this Resolution, which is entitled Resolution Relating to the Authorization and Issuance of School Bonds of the County of Lincoln, North Carolina in this motion.

Chairman Hallman stated that he voted for the previous motion and plans to vote for this motion with the understanding that if more attractive alternatives could be found, he would support those over the referendum.

Commissioner Brotherton stated that he has said all along that he would support a bond issue once he can see that expansion will not work.

Commissioner Waters stated that he can see no reason why anybody would not want to let the public make this decision, it's their money and their schools.

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

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

Recommendations of the Planning Board – November 1, 1999: Tina Clark, Development Technician, presented the following recommendations from the Planning Board.

Zoning Map Amendment No. 321 – James A. and Frankie H. Godfrey, applicants: The Planning Board unanimously denied the request, and requested that it come back as a Parallel Conditional Use Rezoning and waive the fee for refiling of the application.

UPON MOTION BY Commissioner Waters, the Board voted unanimously to take the Planning Board recommendation on Zoning Map Amendment No. 321.

Kelly Atkins stated that the applicants did not want this brought back as a Parallel Conditional Use Rezoning, they actually wanted a vote from the Planning Board on the case heard.

UPON MOTION BY Commissioner Waters, the Board voted to confirm that they are agreeing with the Planning Board in rejecting Zoning Map Amendment 321.

Zoning Map Amendment No. 324 – Ben Singletary, applicant: The Planning Board unanimously denied the request, and requested that it come back as a Parallel Conditional Use Rezoning and waive the fee for refiling of the application.

UPON MOTION by Commissioner Waters, the Board voted unanimously to take the Planning Board recommendation on Zoning Map Amendment No. 324.

Townhomes of Smithstone: The Townhomes of Smithstone were unanimously approved by the Planning Board, with the stipulation that the Planning Department have the final decision.

Kelly Atkins gave a brief update on the Townhomes of Smithstone.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve the Planning Board's recommendation, subject to staff approval.

Natural Heritage Inventory Program: The Planning Board unanimously approved the Natural Heritage Inventory Program be funded up to \$1000.00.

Chairman Hallman asked if the anonymous contribution was from a property owner in Lincoln County. He stated that his concern is that they contributed the money so that whoever is doing the Inventory would not find anything on their property.

Commissioner Brotherton stated that he views this as ground level of another way to intervene on people's property.

Chairman Hallman stated that before he could support this, he would want assurance that the anonymous donor is not a Lincoln County resident or property owner.

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

Amy S. Long, Clerk
Board of Commissioners

James A. Hallman, Chairman
Board of Commissioners