

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, AUGUST 17, 2009

The Lincoln County Board of County Commissioners met on August 17, 2009 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman
Bruce Carlton
George Arena
James A. Klein
Carrol Mitchem

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Netta Anderson, Tax Dept – Customer Service
Kelly Atkins, Planning and Inspections Director
Randy Hawkins, Zoning Administrator
Burns Whittaker, Public Works Director
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the August 17, 2009 meeting of the Lincoln County Board of Commissioners to order.

Rev. J. V. Allen, of Boger City Wesleyan Church, gave the Invocation.

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

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda adding Item 6h – Hazard Mitigation Plan.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

August 17, 2009

6:30 PM Call to Order

Invocation - Rev. J.V. Allen, Boger City Wesleyan Church

Pledge of Allegiance

1. 6:32 PM Adoption of Agenda
2. 6:33 PM Consent Agenda
 - Approval of Minutes
 - August 3, 2009
 - Tax Requests for Refunds - Over \$100
 - July 13 - 19, 2009
 - Request for Vehicles - Howards Creek VFD
 - Budget Adjustment No. 11
3. 6:35 PM Public Comments
4. 6:50 PM Road Naming Public Hearing - Mossy Rock Trail - Netta Anderson
5. 7:00 PM Road Naming Public Hearing - Jack Dellinger Drive - Netta Anderson
6. 7:10 PM Planning Board Recommendations - Randy Hawkins
 - PCUR #110A-2 Burton Creek Investment, LLC, applicant
 - CUP #289 Denver United Methodist Church, applicant
 - CUP #290 Play Time Rv, applicant
 - ZMA #573 Doug Pruitt, applicant
 - ZMA #574 Boucardon, LLC, applicant
 - ZTA #575 Lincoln County, applicant
 - ZMA #569 Lincoln County, applicant
7. 7:30 PM Resolution 2009-24: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Vehicles - George Wood
8. 7:35 PM Release from Declaration of Covenants, Conditions, and Restrictions - Jeff Taylor
 - Exhibit A
9. 7:45 PM Ordinance #2009-6: An Ordinance Amending the FY 2010 Budget Ordinance Adopted on June 15, 2009 - George Wood
10. 7:55 PM Resolution #2009-25: Reimbursement Resolution
11. 8:00 PM Resolution #2009-26: Reimbursement Resolution
12. 8:05 PM Capital Project Reports - Burns Whittaker
13. 8:10 PM Finance Officer's Report
14. 8:15 PM County Manager's Report
 - Foreclosure Report
15. 8:20 PM County Commissioners' Report

- 16. 8:25 PM County Attorney's Report
- 17. 8:30PM Vacancies/Appointments
- 18. 8:35 PM Calendar
- 19. 8:40 PM Other Business
 - Register of Deeds Report
 - Forestry Service Report

Adjourn

Consent Agenda: UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Consent Agenda.

- Approval of Minutes
- August 3, 2009
- Tax Requests for Refunds - Over \$100
 - July 13 - 19, 2009

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (JULY 13, 2009-JULY 19, 2009)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Payseur, Patricia K.	2008	CITY	0217950	160.18
			TOTAL	\$160.18

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (JULY 13, 2009-JULY 19, 2009)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Popko, Kevin M. 2008		ELFD/ELSD	0202236	152.45
Voight, Don W.	2008	ELFD/ELSD	0089832	179.32
			TOTAL	\$ 331.77

- Request for Vehicles - Howards Creek VFD
- Budget Adjustment No. 11
- No. 11 – Carry over Library gift fund balances from previous year

Public Comments: Chairman Patton advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

Renee Moody spoke concerning the UDO's effect on a building they are planning on Highway 73. She asked the Board to kill the topic or at least table the plan.

Being no additional speakers, Chairman Patton declared the public comments section closed.

Road Naming Public Hearing – Mossy Rock Trail – Netta Anderson: Netta Anderson presented the proposed names for Mossy Rock Trail and Jack Dellinger Drive.

The first road is north off NC 73 Hwy and is being named to properly address three homes not easily visible from the street. The name proposed is Mossy Rock Trail and was agreed to by all three residents. The name is not a duplicate or sound-alike and has been approved by Communications.

The second road is north off NC 73 Hwy and is being named due to the request of the Lincolnton/Lincoln County Regional Airport Authority and Lincolnton City Council to change the name of the present Airport Drive Road to Jack Dellinger Drive.

Chairman Patton opened the public hearing concerning the road naming public hearing for Mossy Rock Trail and Jack Dellinger Drive.

Being no one wishing to speak, Chairman Patton declared the public hearing closed.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road naming of Mossy Rock Trail and Jack Dellinger Drive.

Planning Board Recommendations – Randy Hawkins:

Parallel Conditional Use Request No. 110A-2 – Burton Creek Investment, LLC, applicant: A request to amend a conditional use permit to waive or lower the amount of a required bond or letter of credit to cover the cost of removal of sediment determined to have been deposited in Lake Norman from the Burton Creek development. The 250-acre development is located south of Webbs Road, north of Blades Trail and west of Burton Lane in Catawba Springs Township.

Randy Hawkins stated that the Planning Board voted 7-0 to deny approval.

Commissioner Arena asked if there was any progress by the applicant in terms of getting another letter of credit, bond, or fixing the basins where sinkholes were caused in people's property. Mr. Hawkins said not to his knowledge. He said the developer did meet with the residents after the previous meeting, but was unsure of the outcome.

UPON MOTION by Commissioner Arena, the Board voted unanimously to accept the Planning Board's recommendation and deny PCUR No. 110A-2 to include a letter of credit or performance bond.

Conditional Use Permit No. 289 – Denver United Methodist Church, applicant: A request for a conditional use permit to allow lighted ballfields in the R-SF (Residential Single-Family) district. The 3.4-acre parcel is located on the south side of Cedar Street about 300 feet north of Hwy. 16 in Catawba Springs Township.

Randy Hawkins stated that the Planning Board PB voted 6-0 to recommend approval with the following conditions:

- 1) Leyland cypresses shall be planted along the church's property line at the rear of the soccer field. The trees shall be a minimum of 8 feet in height at planting and shall be planted in two rows in a staggered manner, a maximum of 6 feet apart in each row.
- 2) The applicant shall have the lighting contractor adjust the lights and install shields as necessary.
- 3) Lighting shall be reduced to half lighting by 9 p.m. and shall be cut off completely by 9:30 p.m.

Randy Hawkins stated that the Planning Board voted 9-0 to recommend approval.

Commissioner Arena asked if there was any discussion in the Planning Board's meeting about Finding of Fact No. 3, the use will not substantially injure the value of adjoining or abutting property. Mr. Hawkins stated that he does not remember any discussion on this.

A MOTION by Commissioner Mitchem, the Board voted unanimously to accept the Planning Board's recommendation and approve CUP #289.

Commissioner Carlton asked to exclude himself from voting since he is a member of Denver United Methodist Church. He said negotiations have been taking place since January with the one neighbor and the church has bent over backwards after spending \$150,000 on lighting not knowing the zoning was not in place. He said they have done everything to work with the community by turning the lights off by 9 p.m.

A SUBSTITUTE MOTION by Commissioner Klein to table the Conditional Use Permit until September in the hopes that the church would seek and get unanimous support of the neighbors.

Commissioner Arena said he's kind of siding with Commissioner Klein. He said if this has been going on since January, he would like to see the records where they have offered to compensate this individual for the impact on her property value.

Commissioner Mitchem asked if these lights are burning currently. Commissioner Carlton stated that the lights have been turned on one time, one neighbor complained and

they have been off ever since. He said this has been going on for 9 months and nothing is going to change if this is tabled. He said it is time for somebody to make a decision.

Commissioner Arena said he has not seen anything from the church from what they are offering. He said that a single family zoned area has been changed due to this use. He said this may be a detriment to the property value if it is sold.

Mr. Hawkins stated that just to clarify, the use of ballfields is allowed as an accessory use to the church, is permitted by right. When used for other purposes, it needs a conditional use permit.

Vote on Substitute Motion: AYES: Klein, Arena; NOES: Patton, Mitchem
Vote on Commissioner Mitchem's motion: AYES: Patton, Mitchem; NOES: Klein Arena

Jeff Taylor, County Attorney stated that the Conditional Use Permit is effectively denied at this point by not having had a majority vote in favor of it.

Commissioner Mitchem asked if the Board would have a problem with Commissioner Carlton voting on this item. Jeff Taylor stated that as a legal matter, a Commissioner is only obligated to ask to be recused if he has a direct financial interest in the matter before the Board. He said Commissioner Carlton is not obligated to be asked to be excused from voting on this.

Commissioner Arena asked when they can reapply. Randy Hawkins stated that they can reapply in one year.

A MOTION by Commissioner Mitchem to reconsider CUP 289 – Denver United Methodist Church. VOTE: 4 – 1 AYES: Mitchem, Patton, Carlton, Arena
NOES: Klein

Commissioner Arena said the information provided does not say anything about compensation. Commissioner Carlton said that no monetary compensation has been offered for property values.

A MOTION by Commissioner Mitchem to accept CUP #289 – Denver United Methodist Church, applicant.

A SUBSTITUTE MOTION by Commissioner Arena to table for 3 weeks to have a discussion between the church and property owner to try and resolve this, recognizing the impact to the property value. VOTE: 2 – 3 AYES: Klein Arena
NOES: Patton, Mitchem, Carlton

Vote on Commissioner Mitchem's motion to accept Conditional Use Permit No. 289 – Denver United Methodist Church, applicant: 3 – 2 AYES: Patton, Mitchem, Carlton
NOES: Arena, Klein

Conditional Use Permit No. 290 – Play Time Rv, applicant: A request for a conditional use permit to allow a boat and RV sales lot in the B-N (Neighborhood Business) district. The 0.74-acre parcel is located on the west side of Hwy. 16 about 250 south of Old Plank Road in Catawba Springs Township.

Randy Hawkins stated that the Planning Board voted 7-0 to table the request for further study.

Mr. Hawkins stated that the applicant withdrew the request.

Zoning Map Amendment No. 573 – Doug Pruitt, applicant: A request to rezone a 6.7-acre parcel from I-G (General Industrial) to B-G (General Business). The property is located on the west side of Hwy. 16 about 500 feet south of Natalie Commons Drive in Catawba Springs Township.

Randy Hawkins stated that the Planning Board voted 5-2 to recommend the request be denied. He presented the Planning Board's Statement of Consistency and Reasonableness.

Commissioner Arena asked if there have been any changes such as the applicant requesting to table or come back with conditional use. Mr. Hawkins stated that the request has not been changed or tabled, everything is the same.

Commissioner Klein stated that there was not a lot of dialogue from the applicant during the Planning Board's discussion. Mr. Hawkins stated that there was no back and forth between the Planning Board and applicant. He said someone did speak to Planning Board members after the meeting.

Commissioner Arena asked if this was turned down when it could come back to the Board.

Mr. Hawkins stated that they could come back with a different request after a 45-day period.

Commissioner Arena pointed out the reasons he felt conditional zoning would be better, including limiting the occupancy, parking, etc.

Commissioner Carlton stated that this should be sent back to the Planning Board due to the fact that staff is recommending one thing and the Planning Board another.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to send this back for further study from the Planning Board, to be brought back by September 21st after dialogue with neighbors.

Zoning Map Amendment No. 574 – Boucardon, LLC, applicant: A request to rezone a 68-acre parcel from R-T (Transitional Residential) to I-G (General Industrial). The

property is located on the west side of Rufus Road and the east side of the new four-lane Hwy. 16 in Catawba Springs Township.

Randy Hawkins stated that the Planning Board voted 7-0 to table the request at the request of the applicant.

Zoning Map Amendment No. 575 – Lincoln County, applicant: A proposal to amend various sections of the Lincoln County Unified Development Ordinance as the result of a comprehensive review of the ordinance by the Planning Board and staff at the direction of the Board of Commissioners. The Unified Development Ordinance was adopted in November 2008 but has not been put into effect pending completion of the review process. The ordinance combines zoning, subdivision, watershed and floodplain regulations under one ordinance, and includes new regulations regarding development standards, landscaping, signs and other issues.

Randy Williams stated that the Planning Board voted 7-0 to recommend approval with the following recommended changes:

- 1) Add text to Section 2.1.4 (Overlay Districts) and Section 2.5.1 (Overlay District Standards) to state that sections are reserved for future district(s) which may apply to certain area(s) of the county incorporating supplemental development standards.

UPON MOTION by Commissioner Arena, the Board voted unanimously to add text to Section 2.1.4 (Overlay Districts) and Section 2.5.1 (Overlay District Standards) to state that sections are reserved for future district(s) which may apply to certain area(s) of the county incorporating supplemental development standards.

Commissioner Mitchem asked about notification of overlay districts. Mr. Williams stated that there would be public hearings, notifications prior to the public hearings – the same as a zoning text change.

- 2) Delete Section 3.2.4 (Facades) and 3.2.5 (Building Articulation Standards).

Commissioner Arena said this will basically go backward on Highway 16 until something else is in effect.

Commissioner Mitchem spoke against penalizing small business owners with the building articulation standards. He said he has a problem shoving these additional costs down small business owner's throats.

There was a lengthy discussion concerning building standards and facades.

A MOTION by Commissioner Arena to accept facades, Section 3.2.4, withhold Articulation, Section 3.2.5 and instruct the Planning Board to get the districting done at which point he recommends considering withdrawing facades out of the general UDO and putting it into the districts.

**VOTE: 3-2 AYES: Patton, Carlton, Arena
NOES: Klein, Mitchem**

3) Amend Section 2.4.9.A.5 (Recreation and Open Space in Planned Development Districts) and Section 3.3 (Recreation and Open Square Requirements) to require that recreation and open space equal to a minimum of 12.5 percent of the gross site area be provided in subdivisions in which any lot is less than three-quarters of an acre in size, with no requirement that any of the recreation and open space be improved.

The Board had a lengthy discussion concerning open space in planned development districts.

A MOTION by Commissioner Klein to change that 2.4.9.A.5 to read the planned development master plan shall include a minimum of 12.5% recreation and open space.

VOTE: 4 – 1 AYES: Klein, Carlton, Patton, Arena
NOES: Mitchem

UPON MOTION by Commissioner Carlton, the Board voted unanimously to delete 3.3.1, 3.3.2, 3.3.2A, and 3.3.2 B.

A MOTION by Commissioner Klein to keep 25% in section 3.3.5

VOTE: 1 – 4 AYES: Klein
NOES: Carlton, Mitchem, Patton, Arena

A MOTION by Commissioner Arena to delete 3.3.5 in the UDO.

VOTE: 4 – 1 AYES: Carlton, Mitchem, Patton, Arena
NOES: Klein

A MOTION by Commissioner Arena to accept Planning staff's and Planning Board's recommendations with the exceptions of the changes made.

VOTE: 4 – 1 AYES: Carlton, Patton, Arena, Klein
NOES: Mitchem

Commissioner Klein expressed his displeasure at documents being handed out at the meeting. Commissioner Arena said the same information was in the Planning Board minutes that were sent via email last week.

A MOTION by Commissioner Carlton to approve ZMA #575 including all changes made. **VOTE: 4 – 1 AYES: Carlton, Patton, Arena, Klein**
NOES: Mitchem

Zoning Map Amendment No. 569 – Lincoln County, applicant: A proposal to amend the Lincoln County Zoning Map to establish Thoroughfare Overlay Districts along old N.C. 16, new N.C. 16, N.C. 73, East N.C. 150, East N.C. 27, U.S. 321, Maiden Highway, Gastonia Highway, West N.C. 27, West

N.C. 150, West N.C. 150 Bypass, N.C. 182, N.C. 274, N.C. 18 and N.C. 10. This proposal would eliminate the existing Designated Highway Overlay Districts along old N.C. 16, N.C. 73, East N.C. 150, U.S. 321, Maiden Highway, Gastonia Highway, West N.C. 150, West N.C. 27, N.C. 18 and N.C. 10. Under the proposal, the new districts would extend 500 feet from the edge of the highway right-of-way on both sides. In a Thoroughfare Overlay District, additional standards would be applied to nonresidential, multi-family and planned developments for the purpose of maintaining a safe, efficient and functional development pattern and an aesthetic landscape.

Note: The proposed establishment of Thoroughfare Overlay Districts was withdrawn from consideration, but the proposed elimination of the existing Designated Highway Overlay was left in limbo.

Randy Hawkins stated that the Planning Board voted 7-0 to recommend eliminating the existing Designated Highway Overlay Districts concurrent with the effective date of the Unified Development Ordinance.

- 1) Add text to Section 2.1.4 (Overlay Districts) and Section 2.5.1 (Overlay District Standards) to state that sections are reserved for future district(s) which may apply to certain area(s) of the county incorporating supplemental development standards.
- 2) Delete Section 3.2.4 (Facades) and 3.2.5 (Building Articulation Standards).
(5-2 vote on this recommendation)
- 3) Amend Section 2.4.9.A.5 (Recreation and Open Space In Planned Development Districts) and Section 3.3 (Recreation and Open Square Requirements) to require that recreation and open space equal to a minimum of 12.5 percent of the gross site area be provided in subdivisions in which any lot is less than three-quarters of an acre in size, with no requirement that any of the recreation and open space be improved.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Planning Board's recommendation, along with the changes noted along with the statement of consistency and reasonableness.

Hazard Mitigation Plan:

Rob Carson stated that at the previous meeting, the Board of Commissioners and Planning Board were presented with a tentative approval for the 2010 update to the Hazard Mitigation Plan. Staff has received no public comments. Staff was presented with some minor edits and these have been incorporated into the document. The revised draft is ready to be distributed to the North Carolina Emergency Management office and in order to initiate this review, the Board of Commissioners need to make a recommendation for tentative approval. In several months, when the draft is back from the State, the Board will have to give final approval.

UPON MOTION by Commissioner Arena, the Board voted unanimously to accept the Hazard Mitigation Plan as submitted.

Chairman Patton called for a 5 minute recess and called the meeting back to order.

Commissioner Arena thanked the Planning Board and staff for the hard work. He said there are 2 directives to the Planning Board, one on open space to go back to old rules and start to work towards implementation of something with more flexibility without

more penalty. He said the other issue is to start to work on the districts, with the hopes of pulling façade requirements out of the rest of the county and putting them into districts.

Resolution 2009-25: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Vehicles – George Wood: Mr. Wood presented Resolution 2009-25: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Vehicles.

Mr. Wood stated that the idea behind this Resolution is that by State law, vehicles are only supposed to be used for county business. With respect to Sheriff's Department take-home cars is greater visibility as a deterrent to crime. He said we do not need to deter crime in other counties.

**RESOLUTION 2009-25: RESOLUTION TO
AMEND LINCOLN COUNTY PERSONNEL POLICY
WITH RESPECT TO THE USE OF COUNTY VEHICLES**

WHEREAS, Section 153A-169 of the North Carolina General Statutes gives the Board of Commissioners the authority to supervise the maintenance, repair, and use of all county property; and

WHEREAS, the said statute further provides that the Board may issue orders and adopt by resolution regulations concerning the use of county property; and

WHEREAS, the Lincoln County Personnel Policy adopted by resolution of the Board of Commissioners in 2005 and made effective on September 1, 2005, contains provisions regulating the use of county property; and

WHEREAS, the Board believes that it is necessary and desirable to amend the existing provisions of the Personnel Policy in order to address the use of county vehicles as herein provided;

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

1. That pursuant to Section 153A-169 of the North Carolina General Statutes, the Lincoln County Personnel Policy is amended as follows:

Article V, Section 11 is amended to add the following subsection:

F. No county employee who resides outside Lincoln County, whether on a temporary or permanent basis, may use any county-owned vehicle to commute to or from his assigned workplace in Lincoln County. Such an employee must leave any assigned vehicle at his assigned workplace at the end of any work shift and commute using other means of transportation.

2. That this amendment shall become effective on August 18, 2009.

The County Manager may make an exception to this rule for valid business reasons.

Adopted this 17th day of August, 2009.

LINCOLN COUNTY

By: _____

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

A MOTION by Commissioner Klein to approve Resolution 2009-25: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Vehicles.

Commissioner Arena stated that most of the Board went on record last week with certain aspects of the Sheriff's Department. He said he does not want to pursue a game of tightening the Sheriff's budget or restricting usage of cars. He said he wants to keep this at a higher level and let department heads, the Sheriff and Manager decide which cars should go out of county.

Chairman Patton recommended amending this to say that any exemption should be made by the County Manager. He said there are enough Sheriff's cars that could respond in emergencies.

Mr. Wood stated that this is a policy that is already in place, but it was done by memo instead of policy.

**Vote: 4 - 1 AYES: Klein, Carlton, Mitchem, Patton
NOES: Arena**

Release from Declaration of Covenants, Conditions, and Restrictions – Jeff Taylor:
Jeff Taylor said that Rutherford Electric is buying this property and it is not suitable for building so they would like it released from the Covenants, Conditions, and Restrictions.

**STATE OF NORTH CAROLINA
COUNTY OF LINCOLN
RELEASE FROM DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS RELEASE FROM DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 17th day of August, 2009 (and hereinafter referred to as the “2009 Release”), by and between LINCOLN COUNTY, a body corporate and politic (hereinafter, the “Declarant”), and M. NEIL FINGER PROPERTIES, LLC (hereinafter, “Finger”).

WITNESSETH:

WHEREAS, the Declarant herein is also the Declarant under that certain Declaration of Covenants, Conditions, and Restrictions (hereinafter, the “Declaration”) recorded on December 22, 2000, in Book 1211 at Page 356, Lincoln County Public Registry, and is the Declarant under the Supplement to Declaration of Covenants, Conditions, and Restrictions recorded on May 16, 2008, in Book 2037 at Page 15, Lincoln County Public Registry, both of which documents are hereby incorporated by reference; and

WHEREAS, Finger is the owner of those certain parcels of real property (hereinafter, the “Finger Land”) located in Lincoln County, North Carolina, and described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Finger Land is part of the existing Lincoln County Industrial Park (hereinafter, the “Park”) and was placed under the same covenants, conditions, and restrictions as the Park by the terms of the Declaration; and

WHEREAS, Rutherford Electric Membership Corporation desires to purchase the Finger Land described on Exhibit A and desires that it not be restricted as aforesaid; and

WHEREAS, the Declarant and Finger are willing to release the Finger Land from the aforesaid restrictions;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declarant and Finger hereby agree as follows:

1. The Finger Land described on Exhibit A attached hereto is hereby released from the Declaration of Covenants, Conditions, and Restrictions recorded in Book 1211 at Page 356, Lincoln County Public Registry, and all other instruments referenced therein.

2. This instrument shall be governed by the laws of the State of North Carolina. This instrument represents the entire agreement of the undersigned parties hereto as to the matters set forth herein and may not be amended orally. All rights, restrictions, covenants, terms, agreements, and conditions herein set forth are intended to be and shall be construed as running with the land, binding upon, inuring to the benefit of and

enforceable by the parties hereto and their successors and assigns in title.

IN WITNESS WHEREOF, the Declarant and Finger have executed this Release as of the date set forth above.

LINCOLN COUNTY

By: _____

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

I, _____, a Notary Public for said County and State, hereby certify that ALEX E. PATTON personally came before me this day and acknowledged that he is the Chairman of Board of Commissioners of LINCOLN COUNTY, a North Carolina county, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by him as the Chairman of its Board of Commissioners, sealed with its seal, and attested by AMY S. ATKINS as the Clerk to the Board.

Witness my hand and notarial seal, this _____ day of August, 2009.

Notary Public
My Commission Expires: _____

M. NEIL FINGER PROPERTIES, LLC

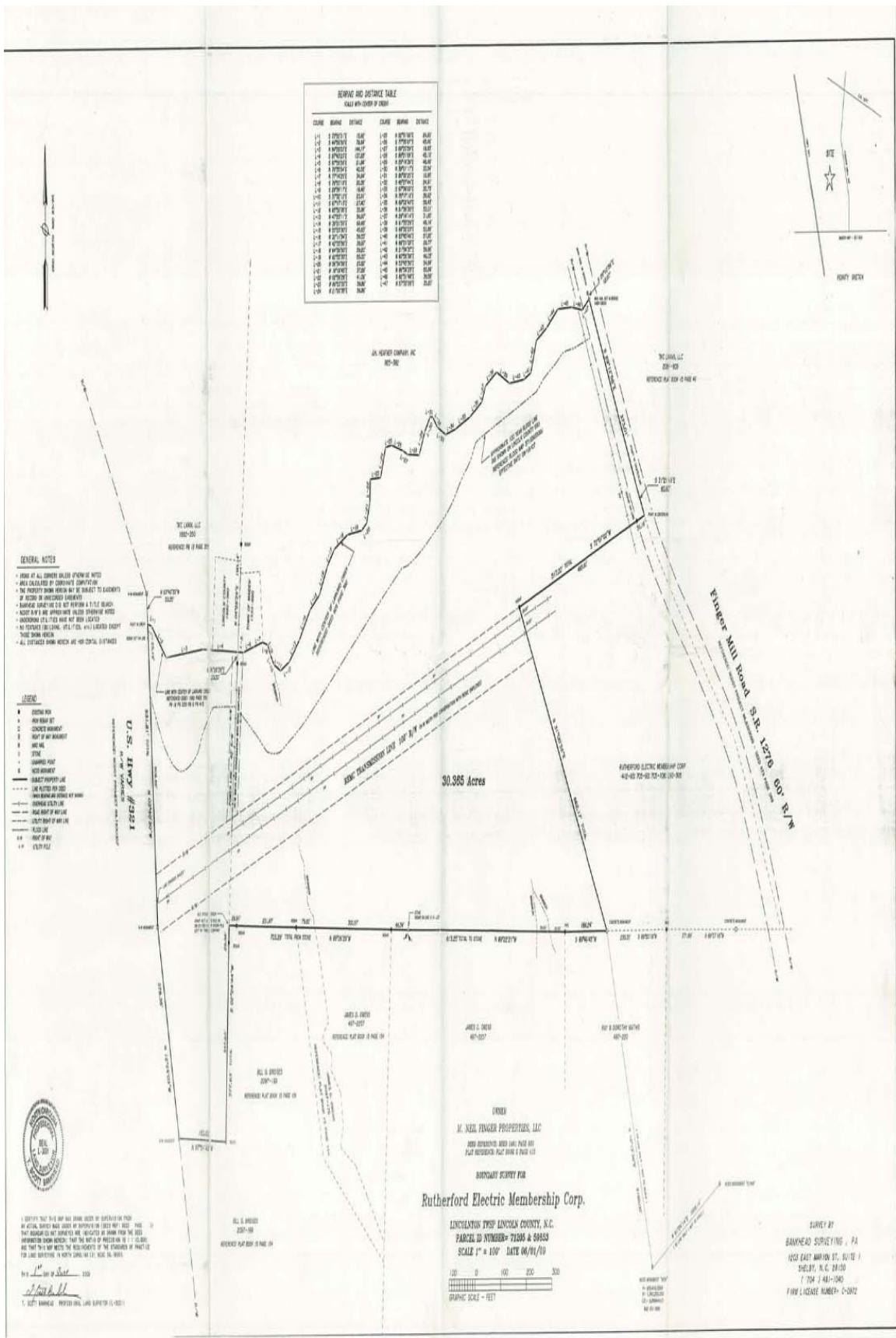
By: _____
M. Neil Finger, Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that M. NEIL FINGER personally appeared before me this day and acknowledged that he is the authorized member of M. NEIL FINGER PROPERTIES, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him.

Witness my hand and notarial seal, this _____ day of
_____, 2009.

Notary Public
My Commission Expires: _____



UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the release from declaration of covenants, conditions, and restrictions.

Ordinance #2009-6: An Ordinance Amending the FY 2010 Budget Ordinance

Adopted on June 15, 2009 – George Wood: George Wood presented Ordinance #2009-6 for the Board's approval. This Ordinance adopts as Exhibit 1 the spreadsheet used to create the budget for the Sheriff to allocate specifically for positions classifications for the fiscal year and to add to that the six additional deputy sheriffs for the COPS grant.

**ORDINANCE #2009-6: AN ORDINANCE AMENDING THE FY 2010 BUDGET
ORDINANCE ADOPTED ON JUNE 15, 2009**

THAT WHEREAS, the Board of Commissioners of Lincoln County, North Carolina adopted the FY 2010 Budget by ordinance dated June 15, 2009; and

WHEREAS, as part of that Budget adopted on June 15, 2009, the Human Resources Director had prepared spreadsheets for each department and division, including all of those under the control of the Sheriff, showing each employee (or vacancy), his position classification, current rate of pay, and all fringe benefits so that the personnel costs of each division could be calculated accurately; and

WHEREAS, those spreadsheets formed the entire basis for the resulting salary, wage, and fringe benefit expenditures in all departments and divisions of Lincoln County government, including all divisions under the control of the Sheriff; and

WHEREAS, it was the intent, and continues to be the intent of the Board of Commissioners that all departments and divisions, including those under the control of the Sheriff, are limited to the specific number of each position classification shown on the referenced spreadsheets; and that no changes in those numbers can be made without the express approval of the Board of Commissioners after a recommendation from the County Manager; and

WHEREAS, the Sheriff's Department has applied for a COPS Grant from the US Department of Justice for additional law enforcement personnel, and has just received notification that the application has been approved; and the Board of Commissioners need to approve the specific number of position classifications financed by this grant;

NOW THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Board of County Commissioners of Lincoln County, North Carolina as follows:

Section 1. That the Ordinance adopting the FY 2010 Budget, adopted on June 15, 2009, is hereby amended by adding a new Section 21 to read as follows:

“Section 21. a) That Exhibit #1, which is the spreadsheet used to prepare the FY 2010 Budget for all divisions under the control of the Sheriff, allocating the specific number of

each type of position classification for the fiscal year, is hereby adopted, and the County Manager is directed to administer the budget accordingly.

b) That Exhibit #2, which is a list of the position classifications applied for and approved by the US Department of Justice for the COPS Grant # 2009RKWX0562, allocating the specific number of each type of position classification for the fiscal year, is hereby adopted as an additional allocation of specified positions for the fiscal year, and the County Manager is directed to administer the budget accordingly.”

Section 2. That this ordinance shall become effective immediately upon its adoption, and execution by the Chairman and Clerk to the Board.

Passed and adopted this 17th day of August, 2009.

BY: _____

Alex E. Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Ordinance #2009-6 – Section 21, subsection b.

A MOTION by Commissioner Carlton, the Board voted 4-1 to approve exhibit A-4-1.

Commissioner Arena said he does not want to be construed as limiting the Sheriff in his budget on how he applies it to law enforcement.

Chairman Patton said he wants it used fairly and does not want somebody promoted to Lieutenant that has been there a year without experience. He said that is not a wise use of resources and there is not position in the budget for this.

VOTE: 4 – 1 AYES: Carlton, Patton, Klein, Mitchem
NOES: Arena

Resolution #2009-26: Reimbursement Resolution:

**RESOLUTION #2009-26:
REIMBURSEMENT RESOLUTION
RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF**

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

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

WHEREAS, the Issuer [has paid, beginning no earlier than June 17, 2009 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the purchase of six Monitor/Defibrillators for the Emergency Medical Services Department (the "Project"), as more fully described in Exhibit A attached hereto; and

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

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

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the proceeds of the Installment Financing for the Expenditures with respect to the Project made on and after [June 17, 2009, which date is no more than 60 days prior to] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Financing.

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

Section 3. The maximum principal amount of the Installment Financing expected to be issued for the Project is \$105,776.15.

Section 4. The Issuer will make a reimbursement allocation

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

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

PASSED AND ADOPTED this 17th day of August, 2009.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A
DESCRIPTION OF PROJECT

Capital Improvement Program – Purchase of six Monitor/Defibrillators at \$17,629.36 each for a total of \$105,776.15. These Monitor/Defibrillators will be used by Lincoln County Department of Emergency Medical Services to provide emergency medical services.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Resolution #2009-26.

Resolution #2009-27: Reimbursement Resolution:

RESOLUTION #2009-27:
REIMBURSEMENT RESOLUTION
RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF
LINCOLN, NORTH CAROLINA, (THE "ISSUER") DECLARING ITS
INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR
MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE
AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION,
CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS

WHEREAS, Lincoln County (the "Issuer") is a political

subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer [has paid, beginning no earlier than June 17, 2009 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the purchase of new American Emergency Vehicle ambulances and other emergency response vehicles for the Emergency Medical Services Department (the "Project"), as more fully described in Exhibit A attached hereto; and

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

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

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the proceeds of the Installment Financing for the Expenditures with respect to the Project made on and after [June 17, 2009, which date is no more than 60 days prior to] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Financing.

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

Section 3. The maximum principal amount of the Installment Financing expected to be issued for the Project is \$465,000.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Installment Financing to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The

Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimus amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

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

PASSED AND ADOPTED this 17th day of August, 2009.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A
DESCRIPTION OF PROJECT

Capital Improvement Program – Purchase of new American Emergency Vehicle ambulances and other emergency response vehicles for a total of \$465,000. These vehicles will be used by Lincoln County Department of Emergency Medical Services to provide emergency medical transportation services.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Resolution #2009-27.

Capital Project Reports – Burns Whittaker: Burns Whittaker presented the Public Works Capital Project Report.

Finance Officer's Report – Leon Harmon: Leon Harmon, Finance Officer, presented the Budget Performance Report for July 2009.

County Manager's Report: George Wood presented the County Manager's Report saying interviews for the Assistant County Manager will be in the next two weeks. The Emergency Services Committee met and has a special meeting set for August 25.

County Attorney's Report: Jeff Taylor updated the Board on a Board of Adjustment case concerning a pier.

Vacancies/Appointments: Commissioner Carlton presented the following vacancies and appointments.

Agricultural District Advisory Board – UPON MOTION by Commissioner Carlton, the Board voted unanimously to reappoint Stephen Secrest and to appoint Wayne Mitchem to the Agricultural District Advisory Board.

Planning Board – UPON MOTION by Commissioner Carlton, the Board voted unanimously to reappoint Jeff Frushtick to the Planning Board.

Calendar: Chairman Patton presented the September 2009 calendar.

Other Business:

- Register of Deeds Report
- Forestry Service Report

Adjourn: **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adjourn the meeting.

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners