

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 14, 2009

The Lincoln County Board of County Commissioners met on September 14, 2009 in the Board of Commissioners Room, Third Floor, James W. Warren Citizens Center, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

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

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Burns Whittaker, Public Works Director
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the September 14, 2009 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Commissioner Carlton gave the Invocation and led in the Pledge of Allegiance.

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

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

SEPTEMBER 14, 2009

- | | | |
|---------|-----------------------------------|-----------------------|
| 6:30 PM | Call to Order | |
| 6:31 PM | Invocation – Commissioner Carlton | |
| 6:32 PM | Pledge of Allegiance | |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:35 PM | Consent Agenda |
| | | - Approval of Minutes |

- August 17, 2009
 - Tax Requests for Releases – More than \$100
 - July 16 - August 15, 2009
 - Tax Requests for Refunds - More than \$100
 - July 20 - August 2, 2009, August 10-23, 2009
 - Budget Adjustments 12-19, 22-26
 - Fall Litter Sweep Proclamation
 - 2009 Lincoln Economic Development Association Proclamation
Industry Appreciation Month
 - Sponsored Group Status
 - Southern Gospel Music Concert to Benefit Tony Greene
Kidney Foundation
 - Waived Fees
 - CMC Lincoln
- | | | |
|-----|---------|---|
| 3. | 6:40 PM | Public Comments |
| 4. | 6:55 PM | Motion on Possible Waiver of Fees for Denver Days |
| 5. | 7:05 PM | Discussion Concerning Possible Lease of Historical Building to United Way |
| 6. | 7:15 PM | Motion to Approve Resolution #2009-28: Resolution Adopting a Financial Policy on Adequate Fund Balance and Working Capital in the Operating Funds |
| 7. | 7:25 PM | Motion to Approve an Agreement for Assignment of Grant Proceedings from the Walking Company Holdings Inc. (f/k/a Big Dog Holdings Inc.) and TKC XCIX, LLC |
| 8. | 7:35 PM | Motion to Approve Resolution #2009-29: Reimbursement Resolution |
| 9. | 7:45 PM | Motion to Approve a Policy Discounting the Lincolnton-Lincoln County Airport Authority's Hangar Property's Water Capacity Development Fees as Recommended by the County Manager and Public Works Director |
| 10. | 7:55 PM | Motion to Authorize the Purchase of Portable and Mobile Radios, and Pagers, and the Method of Financing Them, as Recommended by the Emergency Services Committee |
| 11. | 8:05 PM | Motion to Approve the Distribution of Rescue Equipment Donated by the East Lincoln Rescue Squad, Inc. as Recommended by the Engineering Services Committee |
| 12. | 8:15 PM | Change Order Request No. 1 for Professional Engineering Services, Amity Church Road Water Line Ext. - Burns Whittaker |
| 13. | 8:25 PM | Resolution #2009-30: Resolution to Approve Waiver of Bidding Requirement for Purchase of 2007 Roll-off Truck - Burns Whittaker |
| 14. | 8:35 PM | Budget Increase Request - Burns Whittaker |
| 15. | 8:45 PM | Approval of Bids for Old Plank Road Water Line Extension - Burns Whittaker |

16. 8:55 PM Change Order Request No. 1, Killian Creek Waste Water Treatment Plant - Burns Whittaker
17. 9:05 PM Other Business
- Register of Deeds Report
- Lake Norman Marine Commission Report
18. 9:10 PM Closed Session
Adjourn

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda.

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

- Approval of Minutes
- August 17, 2009
- Tax Requests for Releases – More than \$100
- July 16 - August 15, 2009

NAME	YEAR	DIST	A/C NO	AMOUNT
Bryant, Ronald L	2009	City	19755	\$199.76
Burchfield, Wendell Christopher	2009	City	0203828	\$100.01
Czerny, Astra Beate	2009	City	0216137	\$152.33
Dickerson, Karen Louise	2009	City	0219772	\$128.16
Ellis, Terrance Walter	2009	City	0206900	\$261.03
Ferguson & Associates Inc	2009	City	0180223	\$191.81
Foster, Ashley Nicole	2009	City	0220391	\$166.11
Jones, David Ryan	2009	City	0206007	\$135.07
Lineberger, Brandon Sigmon	2009	City	0145774	\$113.00
McCutchen, Samuel	2009	City	0206866	\$127.54
Roland, Billye Jackson	2009	NBFD	0087536	\$118.43
Sanders, Leslie Helms	2008	ELFD/ELSD	0205229	\$234.38
Segrest, Alden M	2008	DFD/ELSD	0142058	\$405.59
Sipe, Berman Keith	2009	ELFD/ELSD	20259	\$150.47
Wozny, Frank J	2009	ELFD/ELSD	0182014	\$142.53
			TOTAL	\$2,626.22
NAME	YEAR	DIST	A/C NO	AMOUNT

Anderson, John J Family LLC	2009	City	0215936	\$1,656.07
Barkley, Archibald R	2009	PCFD	12045	\$468.34
	2001-			
Behling, Richard A	2009	PCFD	30897	\$929.02
Boger City Baptist Church Inc.	2009	City	0208265	\$138.00
Carpenter, Claude Ralph	2009	N-321	0160058	\$154.75
Chesterbrook Academy	2009	ELFD/ELSD	0216423	\$106.94
Coggins Farms Owl Den	2009	Union	0213389	\$141.90
Colvard, Bobby R	2009	Crouse	46935	\$365.79
Creative Sign Service Inc	2009	City	0219970	\$501.07
Creative Sign Service Inc	2009	Crouse	0219971	\$179.71
Creative Sign Service Inc	2009	SFFD	0219972	\$105.94
Creative Sign Service Inc	2009	DFD/ELSD	0219974	\$271.68
Creative Sign Service Inc	2009	ELFD/ELSD	0219976	\$695.17
Creative Sign Service Inc	2009	BCFD	0219977	\$507.77
Denver Group LLC The	2009	ELFD/ELSD	0155378	\$146.94
Dream Builders Investments	2009	City	0181969	\$859.54
Dynamic Computer Solutions Inc.	2009	ELFD/ELSD	0206373	\$106.94
	2007-			
Ewing, Ronald L	2008	NBFD	0199760	\$715.00
Gaston Community Action Inc.	2009	City	0174340	\$371.91
Gaston Community Action Inc.	2009	City	0174339	\$104.40
Gaston Community Action Inc.	2009	N-321	0128241	\$333.02
Goswick, Titus J	2009	ELFD/ELSD	0192729	\$133.39
Hayes, Robert F Sr.	2009	BCFD	17718	\$288.00
Heaney, Robert A Sr.	2009	ELFD/ELSD	0191818	\$515.94
Heery, James Jr.	2009	ELFD/ELSD	0198429	\$165.26
Helper, Ross	2009	ELFD/ELSD	0196060	\$171.03
Hindson Trust The	2009	PCFD	0213191	\$299.30
Howard, Troy Lee	2009	DFD	18263	\$300.04
	2008-			
Jenkins, David D	2009	BCFD	0110110	\$114.04

Lamar Advertising of Asheville	2009	ELFD/ELSD	0151896	\$248.71
Legg, Basil	2009	ELFD/ELSD	0195824	\$155.86
Lin-Tex LLC	2009	City	0192111	\$455.68
McSwain, Margaret Harrelson	2009	NBFD	0166664	\$283.50
Morgan, Shaun	2009	ELFD/ELSD	0195144	\$192.68
Nisbet Oil Co	2009	PCFD	0192580	\$283.73
Nisbet Oil Co	2009	ELFD/ELSD	26296	\$108.78
Pearson, Thomas Deal (Tressa L)	2009	ELFD/ELSD	19960	\$180.16
Popko, Kevin M	2009	ELFD/ELSD	0202236	\$146.93
Ramsey, Kevin	2009	N-321	0189044	\$220.94
Reel, Horace	2009	PCFD	0187502	\$6,885.46
Shields Frederick A	2009	ELFD/ELSD	0127248	\$437.38
Shoreline Family Medicine	2009	DFD/ELSD	0183708	\$245.11
Southern Parts & Supply Inc.	2008	City	0174424	\$173.49
Suntrust Leasing Corp.	2009	City	0144330	\$100.64
Voight, Don Wayne	2009	ELFD/ELSD	0089832	\$173.59
Ward Jonathan R	2009	ELFD/ELSD	0213688	\$110.89
Warlick, Mark Wayne	2009	Union	0081851	\$138.00
White, Daniel Oliver	2009	DFD	0197199	\$414.38
Wilkes, George s	2008	BCFD	30198	\$208.38
Yountz, David H	2009	ELFD/ELSD	0206608	\$229.85
			TOTAL	\$22,241.04

- Tax Requests for Refunds - More than \$100
- July 20 - August 2, 2009, August 10-23, 2009

LINCOLN COUNTY TAX DEPARTMENT REQUEST FOR REFUNDS ANNUALS

PERIOD COVERED (JULY 20, 2009-AUGUST 2, 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
Denver Group LLC	'07-'08	ELFD/ELSD	0155378	265.72
Little Mountain Vet Clinic	2009	PCFD	0218866	120.69
Pearson, Thomas Deal	2008	ELFD/ELSD	19960	172.00

TOTAL \$ 558.41

LINCOLN COUNTY TAX DEPARTMENT REQUEST FOR REFUNDS ANNUALS

PERIOD COVERED (AUGUST 10, 2009-AUGUST 23, 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
Gomes, Edward E. Sr.	2009	SFFD	0199288	102.23
Moore, Donald M.	2009	DFD/ELSD	0194996	314.53
			TOTAL	\$ 416.76

- Budget Adjustments 12-19, 22-26
- No. 12: Carry over DSS Funds
- No. 13: Increasing expenditure/revenue line items for allocation of ARRA Admin Fndg
- No. 14: Reallocate Water CIP funds to appropriate account nos.
- No. 15: Allocate funds for refund to state concerning BZPP grant
- No. 16: Allocate additional funds to schools' current expense
- No. 17: Budget for increase in salaries/fringe related to 2% COLA
- No. 18: Budget for increase in salaries/fringe related to 2% COLA
- No. 19: Budget for increase in salaries/fringe related to 2% COLA
- No. 22: Revise estimate of capital reserve fund revenue to reflect elimination of ADM Funds by NC General Assembly for next two fiscal years
- No. 23: Budget for expenses disallowed under BZPP grant
- No. 24: Revise estimate of beer/wine revenue to reflect 2/3 reduction in funding by NC General Assembly
- No. 25: Revise estimate for Board of Prisoners since state eliminated \$18 per day jail misdemeanant payments per NC General Assembly
- No. 26: To use grant funds for senior health insurance information program (SHIIP)
- Fall Litter Sweep Proclamation
- 2009 Lincoln Economic Development Association Proclamation
Industry Appreciation Month
- Sponsored Group Status
 - Southern Gospel Music Concert to Benefit Tony Greene Kidney Foundation
- Waived Fees
 - CMC Lincoln

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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.

JC Beaver, said he should be treated like everybody else. He said he pays his taxes like everybody else. He said he would like the people to know what is going on.

Chairman Patton advised Mr. Beaver to bring a list of the addresses to the Board.

Martin Oakes stated he would like to bring the board back to the July 20 meeting where Bill Duston presented the customer service survey for the tax appraisal question. He said that if the right questions were asked and not what the Tax Department wanted the questions to be, there would have been different results. He said there is a serious problem here that needs to be fixed.

Jerry Haney asked the Board to consider taking certified appraisals and them trumping the Tax Departments appraisals at the informal appeal process.

Rudy Bauer said the pump stations still stink and there is a group involved with Burton Creek now so he is going to back off. Mr. Bauer said he surrenders due to personal and health reasons.

Commissioner Carlton told Mr. Bauer that it's guys like him that get things done in government. He thanked him for his time.

Mike Kolosowsky spoke concerning the property tax assessments and appeals process. He said this process should be simple and fair, but this is not always the case. Commissioners can make relatively minor changes to the appeals process to allow taxpayers to more easily and fairly contest their appraisals. He asked the board to allow certified appraisals.

Being no other speakers, Chairman Patton declared public comments closed.

Motion on Possible Waiver of Fees for Denver Days: George Wood presented a request from Bob Hecht to waive or lower the fees for Denver Days. He presented the fees as staff has presented. He said it is up to the Board to decide whether to waive fees, reduce fees, or leave them as is, but if they decide to reduce or waive fees, there should be a legitimate reason for doing so.

Commissioner Carlton stated that the county incurs expenses for Denver Days. He said the Fire Marshal has certain regulations he has to follow. He said this will set precedence.

Commissioner Klein stated that he agrees with Commissioner Carlton and there is a lot to

do as far as staff is concerned.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to deny the request for waiver of fees for Denver Days.

Discussion Concerning Possible Lease of Historical Building to United Way: George Wood presented the two options before the Board, one is to lease the Historical building to United Way and the other option is to waive the rental fees for United Way. Commissioner Klein stated that county currently provides office space for Salem Industries and the Coalition Against Child Abuse.

Wayne Vinzant stated that they are not asking for a handout, but asking for Lincoln County to do something that is good for the county. The particular building probably has no purpose for Lincoln County. He said the money saved on rent will be put back into the programs.

Laura Slack thanked the Board for their consideration and pointed out the good things that United Way has done in Lincoln County.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve lease of property to United Way at no charge.

Motion to Approve Resolution #2009-28: Resolution Adopting a Financial Policy on Adequate Fund Balance and Working Capital in the Operating Funds: George Wood presented Resolution #2009-28 for the Board's approval.

RESOLUTION #2009-28: A RESOLUTION ADOPTING A FINANCIAL POLICY ON ADEQUATE FUND BALANCE AND WORKING CAPITAL IN THE OPERATING FUNDS

THAT WHEREAS, sound financial management requires that Lincoln County preserve adequate financial reserves to cover cash flow variations, economic downturns, loss of revenues from state or federal actions, and new mandated services; and

WHEREAS, adequate financial reserves are one of the major components that bond rating agencies study in determining the creditworthiness of a county government, which can impact the interest rate on any debt issuance; and

WHEREAS, the Local Government Commission, a division of the NC State Treasurer's Office, will not allow the issuance of debt if adequate financial reserves are not maintained; and

WHEREAS, the Lincoln County Board of Commissioners have reviewed a proposed financial policy on adequate reserves recommended by a committee established by the Chairman for this purpose, and wish to adopt the proposal;

NOW THEREFORE BE IT RESOLVED by the Lincoln County Board of Commissioners that the attached document entitled "Financial Policy on Adequate Fund Balance and Working Capital", and the financial reserve targets established therein, are hereby adopted as the financial policy for Lincoln County on adequate financial reserves.

This resolution shall become effective immediately upon its adoption.

Passed and adopted this 14th day of September, 2009.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

Financial Policy on Adequate Fund Balance and Working Capital

There are several reasons why a county should have an adequate amount of available fund balance in its major operating funds. First, some major revenue sources are not received uniformly over the twelve months. Also, there is a normal delay in converting accounts receivable to cash. Fund balance fills these gaps in cash flow. Second, the fund balance provides a contingency for unanticipated expenses. Third, it provides a means to temporarily replace revenues that may unexpectedly decline due to a poor economy, or that may be seized by the State to balance its budget in difficult times. Fourth, it provides a means to save money for a major project. Finally, it assures bond investors that the county can meet its debt service obligations. This is critical in obtaining favorable credit ratings for bond issues, thereby lowering interest costs.

There are four operating funds that should maintain adequate reserves: the General Fund, the Water and Sewer Fund, the Landfill Fund, and the Health Benefits Fund. NCGS 159-8 (a) defines "available fund balance for appropriation" as the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year. The Local Government Commission (LGC), a division of the NC Treasurer's Office, requires that the General Fund's available fund balance at fiscal year-end divided by the expenditures budgeted in the same fiscal year, must not be less than 8%. Any county trending toward a lower level will be contacted to correct this problem. Any county falling below the 8% will not be allowed to issue any further debt. As recently as FY 2008, the average amount of available fund balance for General Funds in NC counties with populations between 50,000 and 99,999 was 24.81%. Lincoln County believes that 15% is sufficient to meet our statutory, cash flow, and emergency

needs in the General Fund, and hereby sets 15% as the target amount of available fund balance to be maintained in the General Fund.

The enterprise funds are accounted for using full accrual accounting, therefore fund balance is not appropriate. The measure in those funds should be available working capital. Working capital is defined as current assets minus current liabilities.

The Water and Sewer Fund and the Landfill Fund need sufficient working capital to meet recurring monthly expenses. These funds have fairly consistent cash flows. Lincoln County has determined that three months of working capital should be sufficient to meet our financial obligation in these two funds, and hereby sets a target of 25% working capital as a percentage of the last fiscal year's budgeted expenses.

The Health Benefits Fund can have a bad claims year in which total claims are not capped until 125% of estimated claims are paid. The 100% of estimated claims would be covered by the budget. Consequently, this fund should have working capital of at least 25% in order to cover this worst case scenario in a single year. Lincoln County hereby sets a target of 25% working capital as a percentage of the last fiscal year's budgeted expenses for this fund.

In any fund where the percentage of available fund balance or working capital falls below the established target, the County Manager shall limit the appropriation of fund balance or retained earnings to no more than 2% of the total fund budget. This should result in rebuilding the reserves to the targeted percentages.

In the event that a severe economic downturn, or the seizing of county revenues by the State, result in a significant loss of anticipated revenues, the County Manager may recommend, and the Board of Commissioners may waive adherence to the 2% appropriation limitation. In such a situation, the Board should be fully informed that it is falling below its targets, and will continue to remain below them for at least another year by waiving this limitation.

The County Manager, with the assistance and advise of the Finance Director, is responsible for seeing that this policy is carried out in annual budget preparation and administration throughout the year. The County Manager is responsible further to make recommendations as to whether any of the established fund targets should be changed.

Commissioner Mitchem said he does not want to overtax the citizens of Lincoln County.

UPON MOTION by Commissioner Klein, the Board voted 4 – 1 (Mitchem against) unanimously to approve Resolution #2009-28: Resolution Adopting a Financial Policy on Adequate Fund Balance and Working Capital in the Operating Funds.

Motion to Approve an Agreement for Assignment of Grant Proceedings from the Walking Company Holdings Inc. (f/k/a Big Dog Holdings Inc.) and TKC XCIX, LLC: George Wood stated that this is recommended by LEDA and is a transfer to the landlord.

ASSIGNMENT OF GRANT PROCEEDS

THIS ASSIGNMENT OF GRANT PROCEEDS (this “Assignment”), effective as of the ___ day of _____, 2009 (the “Effective Date”), is made by and among The Walking Company Holdings, Inc. (f/k/a Big Dog Holdings, Inc.), a Delaware corporation (“Assignor”), TKC XCIX, LLC, a North Carolina limited liability company (“Assignee”) and Lincoln County, a body corporate and politic (the “County”).

WHEREAS, pursuant to that certain Lincoln County Incentive Grant, dated as of April 3, 2006, by and among the Assignor, the Assignee and the County (the “Incentive Agreement”), the Assignor is the recipient of certain cash grants from the County in the approximate amount of \$48,917.53 per year (each, an “Annual Grant”); and

WHEREAS, the Assignor desires to assign to Assignee, all right, title and interest in and to the Annual Grant for each of 2009, 2010, and 2011 (the “Grants”); and

WHEREAS, Assignee desires to acquire the Grants from Assignor, subject to the terms and conditions of this Assignment; and

WHEREAS, Assignor, Assignee and the County desire to confirm the assignment of the Grants to Assignee;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns to Assignee all right, title and interest in and to the Grants.
2. The County hereby (i) consents to the Assignor’s assignment of the Grants to the Assignee, (ii) agrees to pay the Grants directly to Assignee and to make such payments in accordance with the terms set forth in the Incentive Agreement as if the Assignee was the Assignor and (iii) represents that all of the conditions for payment of the Grants contained in the Incentive Agreement have been satisfied and that the obligation of the County to pay the Grants is irrevocable and unconditional.
3. The Assignee hereby accepts the assignment of the Grants.
4. This Assignment may be executed in one or more counterparts (including by facsimile), each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
5. Assignor specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, Assignor shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County, and or its Board of Commissioners, whichever the case may be, by the amount of any such grant or payment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Assignment to be duly executed by their respective authorized officers, all as of the day and year first above written.

ASSIGNOR:

THE WALKING COMPANY HOLDINGS, INC.

By: _____

Name: _____

Its: _____

ASSIGNEE:

TKC XCIX, LLC

By: _____

Name: _____

Its: _____

THE COUNTY:

LINCOLN COUNTY

By: _____

Name: _____

Its: _____

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve an agreement for assignment of grant proceedings from the Walking Company Holdings Inc. (f/k/a Big Dog Holdings Inc.) and TKC XCIX., LLC.

Motion to Approve Resolution #2009-29: Reimbursement Resolution: **UPON MOTION** by Commissioner Arena, the Board voted unanimously to approve Resolution #2009-29: Reimbursement Resolution.

**RESOLUTION #2009-29:
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 will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the construction of a new elementary school along with expansions and renovations to various existing schools and facilities (the "Projects"), 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 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 Bond Funds for the Expenditures with respect to the Project made on and after June 14, 2009. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Financing.

Section 2. Each Expenditure 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 Bonds expected to be issued for the above Projects is \$44,600,000, of which \$13,000,000 of the above authorization was issued in November 2008 along with \$2,000,000 from a prior bond authorization. In order to continue with the authorized projects \$8,500,000 of bond funds is currently scheduled to be issued in early 2010.

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 Bonds 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 14th day of September, 2009.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A

DESCRIPTION OF PROJECT

Capital Improvement Program - Construction of new New Elementary School along with the acquisition of land, equipment and furnishings necessary to provide a complete and furnished facility. Also includes renovations and expansions to existing schools and facilities.

Motion to Approve a Policy Discounting the Lincolnton-Lincoln County Airport Authority's Hangar Property's Water Capacity Development Fees as Recommended by the County Manager and Public Works Director: Mr. Wood presented information concerning Capacity Development Fees at the Airport. He recommended authorizing any existing or new hangars at the Lincolnton-Lincoln County Airport to receive a capacity development fee at ½ the normal cost. For the three existing hangars are half-way through their 20 year lease. He recommended that for these three existing hangars, the owners be charged half price, but in addition, that the amount be decreased by the percentage derived from dividing the number of years already lapsed on the lease by 25.

Mr. Wood said they believe this policy is a fair allocation of the capacity cost for hangars and treats the three existing well water hangar owners fairly as well. It gives us a policy for dealing with all the hangars existing or to be built at the airport. He recommended that the Board adopt the policy.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the policy discounting the LLC Airport Authority's hanger property's water capacity development fees as recommended by the County Manager and Public Works Director.

Motion to Authorize the Purchase of Portable and Mobile Radios, and Pagers, and the Method of Financing Them, as Recommended by the Emergency Services Committee:

Mr. Wood stated that the Board has a detailed memo on this. He said the key issue is whether to bring the system as a 25 kHz system or a 12.5 kHz. By federal law, we have to go to 12.5 in three years. He recommended going to the 12.5 kHz system on the front end. This would mean that pagers, radios and mobiles would need to be replaced if they are not compatible. Mr. Wood recommended financing over a five-year period. He asked the Board to approve subject to further negotiations on the price.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to authorize the purchase of portable and mobile radios, and pagers, and the method of financing them, as recommended by the Emergency Services Committee.

Motion to Approve the Distribution of Rescue Equipment Donated by the East Lincoln Rescue Squad, Inc. as Recommended by the Engineering Services Committee:

Mr. Wood stated that the Board recently entered into an agreement with the East Lincoln Rescue Squad, Inc. and the Denver Lake Norman Rotary Club Foundation, Inc. regarding the rescue squad's assets and the development of a park in east Lincoln. As part of that agreement, the ELRS was to turn over to the County two ambulances, one rescue truck, one center console boat, and two jet skis, and donate the remaining rescue equipment, except for the water recover sonar, recovery boat, and associated equipment, which was donated to the Lincoln County Life Saving and First Aid Crew, Inc.

The process for distribution of the two ambulances and rescue truck was to have the County's Emergency Medical Services Director recommend to the Chairman, Commissioner Arena, and the County Manager where the two ambulances and the rescue truck could most effectively be deployed to provide the best coverage countywide. The two ambulances have been transferred to the Lincoln Life Saving and First Aid Crew, Inc. They cover the central part of the county, and are in bad need of the ambulances. The rescue truck was transferred to the West Lincoln Rescue Squad as there was no such unit in the western portion of the county. The eastern portion has two fire departments providing rescue services that have this type of equipment.

The rest of the equipment has been received and inventoried by the Emergency Medical Services Director and he has made his recommendations to the Emergency Services Committee. Further, area fire and rescue departments were asked to submit a list of what they might need. The Emergency Services Committee met on August 25th to match those requests with the available items from ELRS.

Mr. Wood recommended that the Board accept the Committee's recommendations, and authorize the distribution of assets.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the distribution of rescue equipment donated by the East Lincoln Rescue Squad, Inc. as recommended by the Engineering Services Committee.

Change Order Request No. 1 for Professional Engineering Services, Amity Church

Road Water Line Ext. – Burns Whittaker: Mr. Whittaker stated that the requested change order reduces the scope of engineering services required for the subject project. The cost is revised downward by \$15,000.

The original contract included “Construction Administration” items which can be proved more efficiently by the in-house staff. Contract amount is reduced from \$78,000 to \$63,000. Additional \$8,000 remains in contract for “on call services only; thus final contract amount may be reduced further.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve Change Order Request No. 1 for Professional Engineering Services, Amity Church Road Water Line Ext.

Resolution #2009-30: Resolution to Approve Waiver of Bidding Requirement for Purchase of 2007 Roll-off Truck – Burns Whittaker:

UPON MOTION by Commissioner Arena, the Board approved Resolution #2009-30: Resolution to Approve Waiver of Bidding Requirement for Purchase of 2007 Roll-Off Truck.

**RESOLUTION TO APPROVE WAIVER OF
BIDDING REQUIREMENTS FOR PURCHASE OF
2007 Roll-Off Truck**

WHEREAS, Lincoln County has a need to purchase a **Roll-Off Truck** to haul refuse containers from our convenience sites;

WHEREAS, within the 12 months previous to the date of this resolution, (**Cleveland County Solid Waste Facility**), after receiving 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 (**2007 Roll-Off Truck**) for (**\$124,750.00**); and

WHEREAS, (**Volvo GMC Truck Center of Carolina**) is willing to make available to Lincoln County the same pricing as the contract approved by (**Cleveland County Solid Waste Facility**); 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 RESOLVED:

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 (**2007 Roll-Off Truck**) to haul (**refuse containers**) on the terms outlined herein.
2. That the purchase of (**2007 Volvo Roll-Off Truck from Volvo GMC Truck Center of Carolina**) in the amount of (**\$124,750.00**) is hereby approved as authorized by N.C.G.S. 143-129.

Adopted this 14th day of September, 2009.

LINCOLN COUNTY

By: _____
Alex Patton,
Chairman, Board of Commissioners

ATTEST:

Amy S. Atkins,
Clerk to the Board of Commissioners

Budget Increase Request – Burns Whittaker: Mr. Whittaker stated that this is a budget increase request to bring the Forney Creek WWTP up to the same SCADA standards as Killian Creek so the two plants will “talk” to each other. He said they have decided to standardize on Dorsett Industries who is currently installing the new SCADA system at the Water Treatment Plant. This will allow everything to be tied together.

He said there was a \$40,000 budget line item to upgrade to SCADA system at Forney Creek. He said negotiations with Dorsett were concluded at a price of \$69,805.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the budget increase request.

Approval of Bids for Old Plank Road Water Line Extension – Burns Whittaker:

On August 27, 2009, bids were received to install a 12" Water main along Old Plank Road. This water line will provide water to the new Killian Creek WWTP and to the Duke Power facility. Duke Power is participating in the project by providing the material from the entrance road of the WWTP to the entrance road of Duke Power, a distance of approximately 4600 LF. This line will provide future capacity to extend the line from Duke Power to Highway 73 and complete a much needed loop in that area.

The low bidder was Neill Grading and Construction, Hickory, NC whose bid is \$242,728.50. Second low bid was \$255,280.84 from Siteworks, LLC, Charlotte. Eighteen bids were received ranging from the low bid of \$242,728.50 to \$446,008.70.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve the award of this contract to Neill Grading and Construction as outlined in the September 14, 2009 memo.

Change Order Request No. 1, Killian Creek Waste Water Treatment Plant – Burns Whittaker: Mr. Whittaker said this is being withdrawn from the agenda and will be added to the next agenda.

Mr. Whittaker gave a drought update, saying we could go back into stage 1 drought if we don't get some rain soon.

OTHER BUSINESS:

- Register of Deeds Report
- Lake Norman Marine Commission Report

Closed Session: **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to enter closed session pursuant to NCGS section 143-318.11 to consult with legal counsel in order to preserve the Attorney-client privilege between the attorney and the county.

Other Business: **A MOTION** by Commissioner Arena that effective 8:00 a.m. tomorrow morning, September 15, that 911-Communications Center will revert back under the direction of the County Manager's Office.

VOTE: **AYES:** **Patton, Carlton, Arena, Mitchem**
NOES: Klein

Ken Fortenberry said he would like to register complaint relative to the vote that was taken concerning the Communications Center. He said that appears to be a policy decision and there was not policy discussion. He said he would like it on the record.

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex Patton, Chairman
Board of Commissioners