

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, OCTOBER 5, 2009**

The Lincoln County Board of County Commissioners met on October 5, 2009 at the Citizens Center, Board of Commissioners Room, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman  
Bruce Carlton, Vice Chair  
George Arena  
James A. Klein

Commissioners Absent:

Carrol Mitchem

Planning Board Members Present:

Jerry Geymont, Chairman  
Louis McConnell, Vice-Chairman  
Tom Campbell  
Karl Dearnley  
Gary Garlow  
Keith Johnson  
James Mauney  
Jeff Frushtick

Others Present:

George A. Wood, County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Kelly Atkins, Planning and Inspections Director  
Randy Hawkins, Zoning Administrator  
Andrew Bryant, Planner  
Burns Whittaker, Public Works Director  
Leon Harmon, Finance Director

**Call to Order:** Chairman Patton called the October 5, 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.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adopt the agenda adding Item 8 - closed session to discuss a potential lawsuit.

## **AGENDA**

### **LINCOLN COUNTY BOARD OF COMMISSIONERS**

**OCTOBER 5, 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   |
|    |         | <ul style="list-style-type: none"><li>- Approval of Minutes</li><li>- September 21, 2009</li><li>- Tax Requests for Releases – More than \$100</li><li>- August 16 - September 15, 2009</li><li>- Budget Adjustment 27</li><li>- Appointment of Marth Lide as Emergency Management Coordinator</li><li>- Approval of 4H Proclamation</li><li>- Tax Requests for Refunds</li><li>- August 24 - September 6, 2009</li></ul>  |
| 3. | 6:40 PM | Marine Week Proclamation   |
| 4. | 6:50 PM | Zoning Public Hearings – Randy Hawkins   |
|    |         | <ul style="list-style-type: none"><li>- CUP #291 - Mountain Area Gem and Mineral Association, applicant. Request for a conditional use permit to allow group digs and camping up to four weekends a year in the R-T (Transitional Residential) district. The 62-acre parcel is located at 375 Timber Road, Iron Station, on the east side of Timber Road about 1,000 feet south of Reinhardt Circle.</li><li>- CUP #292 - Vesuvius Vineyard Inc., applicant. Request for a conditional use permit to host outdoor weddings, corporate events and other private gatherings in the R-T (Transitional Residential) district. The proposed nine-acre site is located at 6173 Vesuvius Furnace Road, Iron Station, on the north side of Vesuvius Furnace Road about 1.1 miles west of Beth Haven Church Road.</li></ul> |
| 5. | 7:30 PM | Public Comments  |
| 6. | 7:45 PM | New Legislation Governing Irrigation Systems - Burns Whittaker   |

7. 7:40 PM Other Business  
Adjourn

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

- Approval of Minutes
- September 21, 2009
- Tax Requests for Releases – More than \$100
- August 16 – September 15, 2009

Buddy Stasney's Buick Pontiac	2009	City	0210477	\$152.89
Canady, Jeffrey Howard	2009	ALFD	0134393	\$108.45
Dale Jarrett Racing Adventure	2009	DFD/ELSD	0167874	\$130.74
El Kurd, Nicole Haliemah	2009	City	0220392	\$112.40
Elliott, Samuel Richard	2009	City	0162404	\$409.38
Finster, John Thomas	2009	HCFD	0203671	\$133.37
Fisher, Frederick Michael	2009	ELFD/ELSD	0220858	\$114.88
Keener, Milton Eurey	2009	SFFD	0086466	\$164.75
Kinney, Jennings Bryant	2009	City	0105492	\$114.70
McGinnis, Caroline Mellon	2008	Crouse	0091527	\$105.72
Mosteller, Jerry Alan	2009	City	0090207	\$115.71
Nantz, Gary W	2009	City	10423	\$123.96
Robinson, Elliot A	2003	DFD/ELSD	0150218	\$279.55
Rose, Michael Gordon	2007	BCFD	0209673	\$121.99
Smith, Diane Gayle	2007	City	0220690	\$126.11
Wilkinson, Mark Bruce	2009	PCFD	0214109	\$109.94
Yount, Sara Paige	2009	City	0193378	\$118.61
<b>TOTAL</b>				<b>\$2,543.15</b>

NAME	YEAR	DIST	A/C NO	AMOUNT
Blake, Jill	2009	ELFD/ELSD	0213647	\$123.33
Blanton, Arnold Tyrone	2009	NBFD	0167015	\$1,980.34

Castaneda, John	2009	ELFD/ELSD	0221562	\$218.20
Cook, Mabel	2009	ELFD/ELSD	0221567	\$107.87
Dibernardo, Joseph M Anthony	2009	Union	03410	\$215.40
Drake, Clare Angela	2009	BCFD	0197555	\$288.00
Gallison, James Henry Jr.	2009	DFD	0178390	\$379.46
Garrison, Imogene	2009	SFFD	0149116	\$2,604.93
Halford & Associates Inc.	2009	DFD	0200840	\$156.70
Houser, Elaine Byers	2009	HCFD	0067061	\$224.57
Hovis, Elizabeth Smith	2009	SFFD	0155273	\$2,793.11
Jim N I Fitness Inc.	2009	ELFD/ELSD	0202800	\$133.43
Johnson, Kevin Scott	2009	DFD/ELSD	0131334	\$1,615.19
Jones, Larry E	2009	ALFD	0064475	\$3,236.28
Jones, Larry Eugene	2009	ELFD	18875	\$3,417.20
Maddox Maggie B	2009	N-321	07275	\$185.75
Mechanical Control Systems Inc.	2008- 2009	DFD/ELSD	0190877	\$377.41
Miriam C Robinson Trustee	2009	Union	0172266	\$1,262.04
Montgomery, Robert W	2009	DFD/ELSD	0148025	\$331.68
Occhiuto, Ralph J Jr.	2009	DFD/ELSD	0199061	\$315.57
Pancake House The	2008	City	0163947	\$265.62
Pilz, Matt	2009	ELFD/ELSD	0213701	\$100.91
Putnam, Keith Ryan	2009	ALFD	0113396	\$1,226.30
Rink Media	2009	BCFD	0186625	\$327.44
Rink Media	2009	City	0186630	\$330.64
Rink Media	2009	DFD/ELSD	0219999	\$531.76
Rink Media	2009	ALFD	0220001	\$362.97
Rink Media	2009	PCFD	0220002	\$234.60
Robinson, Miriam C George P	2009	Union	0148641	\$21,642.66
Robinson, Miriam C Living Trust	2009	Union	0172877	\$3,755.88
Ross, Forest Gene	2009	HCFD	09759	\$1,007.54
Simmons, Jerry W	2009	ALFD	37858	\$2,441.63

Smith, Edith R	2009	ELFD	0153020	\$288.51
Smith, Wayne B	2009	BCFD	16814	\$1,851.77
Summey, James P Life Estate	2009	ALFD	16530	\$3,946.11
Waters, Charles Allen	2009	Union	03706	\$2,021.18
Wilcox, Doug	2009	ELFD/ELSD	0221652	\$157.06
Young, Willie B	2009	NBFD	0196118	\$207.00
<b>TOTAL</b>				<b>\$60,666.04</b>

Budget Adjustment No. 27 for Register of Deeds to carry over balance of automation funds in general fund from previous year as per G. S. 161-11.3.

- Appointment of Martha Lide as Emergency Management Coordinator
- Approval of 4H Proclamation

### ***4H Proclamation***

WHEREAS, North Carolina 4-H has a “Historic Legacy and Prosperous Future”; and

WHEREAS, since 1909 the 4-H Club has provided a world in which youth and adults learn, grow and work together as catalysts for positive change; and

WHEREAS, the mission of the 4-H Club is to assist youth in acquiring knowledge, developing life skills and forming attitudes that will enable them to become self-directing, productive and contributing members of society; and

WHEREAS, North Carolina 4-H is a program of North Carolina Cooperative Extension, housed out of North Carolina State University and North Carolina Agricultural & Technical University, and this youth development program is celebrating its 100th anniversary this year; and

WHEREAS, during 2009 the North Carolina 4-H program is commemorating its centennial anniversary

THEREFORE, BE IT RESOLVED, THAT 2009 be designated as the Centennial Anniversary of 4-H in North Carolina and that the North Carolina 4-H and Lincoln County 4-H programs be recognized and commended for their 100 years of service to the people of this State and County and contributions they have made and are making through the dedicated efforts of North Carolina Cooperative Extension employees to the 204,000 members currently enrolled in 4-H and the more than 19,000 adult and teen volunteers who give of their time and energy to make 4-H a truly great organization.

NOW, THEREFORE, we, the Lincoln County Board of Commissioners, do hereby proclaim 2009, The NC 4-H Centennial and urge the people of this community to take advantage of the opportunity to become more aware of this special program which gives youth the chance to learn together and on their own as part of (county) County 4-H, and to join us in recognizing the unique partnership between our county and our state’s Land-Grant University System.

Alex E. Patton, Chairman

Bruce W. Carlton, Vice-Chair

Tax Requests for Refunds – August 24 – September 6, 2009

LINCOLN COUNTY TAX DEPARTMENT

**REQUEST FOR REFUNDS**

MOTOR VEHICLES

PERIOD COVERED (AUGUST 24, 2009-SEPTEMBER 6, 2009)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00

(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Banc of America Leasing	2008	CITY	0201698	568.92
TOTAL				\$568.92

LINCOLN COUNTY TAX DEPARTMENT

**REQUEST FOR REFUNDS**

ANNUALS

PERIOD COVERED (August 24, 2009-September 6, 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
The Pancake House	2007	CITY	0163947	284.65
TOTAL				\$ 284.65

**Marine Week Proclamation:** Hank Kaczmarek presented the Marine Week Proclamation for the Board's approval.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the Marine Week Proclamation.

*Marine Week  
Proclamation*

WHEREAS, October 25 is the 26<sup>th</sup> anniversary of the heroism and Combat death of Lincolnton's native son, Capt. Jeb Franklin Seagle USMCR (Navy Cross – Grenada); and

WHEREAS, October 23<sup>rd</sup> is the 26<sup>th</sup> anniversary of the terrorist bombing of the Marine BLT building in Beirut that cost nearly 300 Marines and Navy Corpsmen their lives; and

WHEREAS, on Sunday, October 25, the Capt. Jeb F. Seagle Detachment will be holding a memorial service to remember their Detachments' namesake, and to also remember their brothers who were murdered in Beirut; and

NOW, THEREFORE, we the Lincoln County Board of Commissioners, do hereby proclaim October 19 – 25 as “Marine Week” in Lincoln County.

ADOPTED this the 5<sup>th</sup> day of October 2009.

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Alex E. Patton, Chairman,  
Board of Commissioners

ATTEST:

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Amy S. Atkins, Clerk  
Board of Commissioners

### **New Business/Advertised Public Hearings:**

Chairman Patton announced that this was the date, Monday, October 5, 2009, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on September 25 and October 2, 2009.

### **NOTICE OF PUBLIC HEARINGS**

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, October 5, 2009, at 6:30 p.m. to consider the following matters:

CUP #291 Mountain Area Gem and Mineral Association, applicant (Parcel ID# 24834) A request for a conditional use permit to allow group digs and camping up to four weekends a year in the R-T (Transitional Residential) district. The 62-acre parcel is located at 375 Timber Road, Iron Station, on the east side of Timber Road about 1,000 feet south of Reinhardt Circle.

CUP #292 Vesuvius Vineyard Inc., applicant (Parcel ID# 02420) A request for a conditional use permit to host outdoor weddings, corporate events and other private gatherings in the R-T (Transitional Residential) district. The proposed nine-acre site is located at 6173 Vesuvius Furnace Road, Iron Station, on the north side of Vesuvius Furnace Road about 1.1 miles west of Beth Haven Church Road.

Interested parties may appear at the public hearing, which will be held in the Commissioners Room on the third floor of the James W. Warren Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Lincoln County Planning and Inspections Department at (704) 736-8440.

2T: Sept. 25, Oct. 2, 2009

**Conditional Use Permit # 291 – Mountain Area Gem and Mineral Association,**

**applicant:** Randy Hawkins presented the following information concerning Conditional Use Permit No. 291 – Mountain Area Gem and Mineral Association.

The applicant is requesting a conditional use permit to allow group digs and camping up to four weekends a year in the R-T (Transitional Residential) district. The proposed use is classified as recreation. Under the Unified Development Ordinance, private outdoor recreation is permitted in the R-T district only where approved by the Board of Commissioners through the issuance of a conditional use permit.

The permit was requested due to complaints about a dig that was held in February. Planning and Inspections contacted them to tell them they would have to apply for a conditional use permit.

**SITE AREA AND DESCRIPTION**

The 62-acre parcel is located on the east side of Timber Road about 1,000 feet south of Reinhardt Circle in Ironton Township. It is the site of an automobile junkyard that is grandfathered under zoning. It is surrounded by property zoned R-T. Land uses in this area are primarily residential. The Lincoln County Land Use Plan designates this area as Suburban Residential.

**CONDITIONAL USE PERMIT REQUIREMENTS**

Section 9.11.8 of the Unified Development Ordinance requires that four findings be determined by the Board of Commissioners in deciding whether to approve a conditional use permit:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located and will be in general conformity with the approved Land Development Plan for the area in question.

**STAFF RECOMMENDATION**

Staff recommends approval of a conditional use permit with the following conditions:

- 1) A driveway permit shall be obtained from the N.C. Department of Transportation.



2) The Lincoln County Planning and Inspections Department shall be notified in advance of each dig.

3) Participation in the digs shall be limited to members of the Mountain Area Gem and Mineral Association.

4) No camping shall take place in the 100-year flood plain.

5) Alwood Lane shall be used only in case of an emergency.

Chairman Patton opened the public hearing concerning Conditional Use Permit No. 291–Mountain Area Gem and Mineral Association, applicant.

Richard Jacquot, President of the Mountain Area Gem and Mineral Association said the depth of the excavations are normally 2 to 5 feet and are done by hand tools only, no machinery is involved. He said they are looking for amethyst-crystals. He said they are trying to get a permit to bring their club in. He said they take field trips all over the south east. He said these are three day events and people keep what they find. He said they fill in the holes and smooth things out

Steve Barr stated that he lives in Columbus County and is a representative of the Magna Field Trip Group. He said they are a NC-based recreational based rock and mineral collecting club. He said these people come from all walks of life. He stated that when they were here in February, they did not know a permit was needed. He said these people come in from out of county and spend money here.

Billie C. Nantz stated that she lives at 414 Timber Road, straight across the road from where this dig will occur. She said they have never had a problem with it over the years and have been there 46 years.

Keith Gaskill stated that the Sutphin property joins his on two sides. He said you cannot see or hear these people when they are there for digs.

Roger Herndon stated that this property is about 75 feet in front of his house and he is a missionary to the prisons and was gone when they were there earlier, but his wife told him that there was a lot of noise being made. He said he bought 53 acres there to get away from this type of thing. He said this is on the same property as a junk yard. He said on February 20, they had a dig without permits and they lied to Randy saying there was not a charge to dig when there was. Mr. Herndon presented a warrant for his arrest and said this is a modern Hatfield and McCoy case. He stated that they have gone and put ugly black screening up on the property now.

Patricia Herndon stated that she is a little surprised at comments by her neighbors since they have had problems with the neighbors. She presented the warrants against her. She

said Merle Nantz told her that she would speak against the Sutphins, but she is afraid they'd burn their house down.

William Lentz, Jr. said he attended the dig in February and that the Board should approve this. He said it is a great event for families to attend.

Mark Randle presented a more detailed proposal for the dig.

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

**Conditional Use Permit No. 292 – Vesuvius Vineyard, Inc:** Randy Hawkins presented the following information concerning CUP No. 292 – Vesuvius Vineyard, Inc.

The applicant is requesting a conditional use permit to host outdoor weddings, corporate events and other private gatherings in the R-T (Transitional Residential) district. The proposed use is classified as recreation. Under the Unified Development Ordinance, private outdoor recreation is permitted in the R-T district only where approved by the Board of Commissioners through the issuance of a conditional use permit.

#### **SITE AREA AND DESCRIPTION**

The proposed nine-acre site is located on the north side of Vesuvius Furnace Road about 1.1 miles west of Beth Haven Church Road in Ironton Township. It is part of a 362-acre parcel. The house on this site is listed on the National Register of Historic Places. The site is surrounded by property zoned R-T. Land uses in this area are primarily residential and agricultural. The Lincoln County Land Use Plan classifies this area as Rural Residential.

#### **CONDITIONAL USE PERMIT REQUIREMENTS**

Section 9.11.8 of the Unified Development Ordinance requires that four findings be determined by the Board of Commissioners in deciding whether to approve a conditional use permit:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located and will be in general conformity with the approved Land Development Plan for the area in question.

#### **STAFF RECOMMENDATION**

Staff recommends approval of a conditional use permit with the following condition:  
A driveway permit must be obtained from the N.C. Department of Transportation

Chairman Patton opened the public hearing concerning Parallel Conditional Use Request Conditional Use Permit No. 292 Vesuvius Vineyard, applicant.

John Lineberger thanked the Board for the opportunity and said they are excited about this business venture. He said there is a great need for a venue like this to hold weddings and social gatherings.

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

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

**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.

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

**New Legislation Governing Irrigation Systems – Burns Whittaker:** Burns Whittaker stated that the State of North Carolina has passed new legislation with regard to the installation of in ground irrigations systems. The new legislation prohibits any new in ground irrigation systems from being connected to the customer's domestic water system.

**Other Business:** George Wood said the Communications Advisory Committee will be holding their first meeting on October 13 and will meet once per month.

Mr. Wood said it is coming up on the time to meet with the Board of Education. He said when we get enrollment numbers, we amend the APFO based on that and the corresponding maps. He said the schools have qualified for QSABS, which are interest free.

The Board set the Planning Retreat for December 4 at 9 a.m. at the LEDA office.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the appointment of Jessie Townsend to the Jury Commission.

**Closed Session:** **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to enter Closed Session pursuant go NCGS 143-318.11(a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Alex Patton, Chairman  
Board of Commissioners