

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JANUARY 25, 2010

The Lincoln County Board of County Commissioners met in regular session on January 25, 2010 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M.

Commissioners Present:

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

Commissioners Absent:

Carrol Mitchem

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Netta Anderson, Addressing Tech
Cindy Kincaid, Centralina
Burns Whittaker, Public Works Director
Kelly Atkins, Building and Land Development Director
Andrew Bryant, Planner
Erma Deen Hoyle, Parks and Recreation Director
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the January 25, 2010 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Reverend J. V. Allen, Boger City Wesleyan Church, gave the Invocation. Chairman Patton 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 removing Item 8 and adding a closed session.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

JANUARY 25, 2010

The Lincoln County Board of Commissioners will meet at 5:00 p.m., prior to the regular board meeting scheduled at 6:30 p.m., for a work session on the Space Needs Study. The work session will be conducted in the Board of Commissioners Room.

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
 - Waived Fees
 - Rotary Auction
 - Sponsored Group Status
 - Gaston Community Action Head Start
 - Upward Basketball
 - Emmanuel Lutheran Church
 - Ordinance #2010-01: An Ordinance Amending the FY 2010 Budget for the County of Lincoln, NC
 - Resolution #2010-9: Reimbursement Resolution - Radio Equipment
 - Resolution #2010-10: Reimbursement Resolution - Law Enforcement Vehicles
3. 6:35 PM Public Comments
4. 6:50 PM Public Hearing - Road Names - Netta Anderson
 - Honey Bee Lane
 - Bridlewood Lane
 - Baby Bears Lane
5. 7:00 PM Nursing and Adult Care Home Community Advisory Committee - Cindy Kincaid
6. 7:10 PM Water and Sewer Rate Study: Recommendation for Award - Burns Whittaker
7. 7:20 PM Adequate Public Facilities Program - Memorandum of Understanding Revision with the Board of Education and Public Hearing Announcement - Andrew Bryant
8. 7:30 PM Recommendation Lake Norman Bike Trail - Andrew Bryant
9. 7:45 PM PARTF Grant Applications - Rock Springs Park and East Lincoln Rescue Squad Park - Erma Deen Hoyle
10. 8:00 PM Updated NC Statewide Emergency Management Mutual Aid and Assistance Agreement - George Wood
11. 8:10 PM Motion to Approve Grant for \$19,500 from NC Governor's Highway Safety Program for Traffic Enforcement - This grant is 100% Federal

Money - and Approval of Resolution #2010-08: Local Government Resolution for North Carolina Governor's Highway Safety Program - George Wood

12. 8:20 PM Resignation and Appointment of New Successor Trustee for Two COPS Issuances - George Wood

13. 8:30 PM Resolution #2010-06: A Resolution Requesting NC General Assembly Prohibit Illegal Aliens from Attending NC Community Colleges - George Wood

14. 8:40 PM Resolution #2010-07: Resolution Requesting the NC General Assembly Oppose Transfer of Secondary Road Program to Counties - George Wood

15. 8:50 PM City Election Expenses - George Wood

16. 9:00 PM Capital Project Report - Burns Whittaker

17. 9:05 PM Finance Officer's Report - Leon Harmon

18. 9:10 PM County Manager's Report - George Wood

19. 9:15 PM County Commissioners' Report

20. 9:20 PM County Attorney's Report

21. 9:25 PM Vacancies/Appointments

22. 9:30 PM Calendar

23. 9:35 PM Other Business
- Register of Deeds Monthly Report

Adjourn

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

- Waived Fees
- Rotary Auction
- Sponsored Group Status
 - Gaston Community Action Head Start
 - Upward Basketball
 - Emmanuel Lutheran Church
- Ordinance #2010-01: An Ordinance Amending the FY 2010 Budget for the County of Lincoln, NC
- Resolution #2010-9: Reimbursement Resolution - Radio Equipment
- Resolution #2010-10: Reimbursement Resolution - Law Enforcement Vehicles

**ORDINANCE #2010-01: AN ORDINANCE AMENDING THE FY 2010 BUDGET
FOR THE COUNTY OF LINCOLN, NORTH CAROLINA**

THAT WHEREAS, the Lincoln County Board of Commissioners adopted the FY 2010 Budget by approving Ordinance #2009-02 on June 15, 2009; and

WHEREAS, the Finance Director and County Manager are recommending further amendments as shown on the attachments herein; and

WHEREAS, the Lincoln County Board of Commissioners wishes to approve these proposed budget adjustments;

NOW THEREFORE BE IT ORDAINED AND ESTABLISHED by the Board of Commissioners of Lincoln County, North Carolina, that the FY 2010 Budget previously adopted is hereby amended as follows:

Section 1. That the budget adjustments attached hereto, and incorporated herein by reference as Exhibit A to Ordinance #2010-01, are hereby approved and adopted as amendments to the FY 2010 Budget.

Section 2. That this amendment to the budget shall become effective immediately upon its adoption by the Board of Commissioners.

Passed and adopted this 25th day of January, 2010.

BY: _____
Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk to the Board

**RESOLUTION #2010-9: REIMBURSEMENT RESOLUTION
RADIO EQUIPMENT**

**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 November 25, 2009 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition and installation of mobile and portable radios for various emergency services departments (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 [November 25, 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 \$275,000.

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 25th day of January, 2010.

Alex E. Patton, Chairman
Board of Commissioners
ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A

DESCRIPTION OF PROJECT

Capital Improvement Program - Acquisition and installation of mobile, portable and related radio equipment for sheriff, fire, EMS, Rescue and various emergency service agencies. The radios and related equipment are to improve communications with various agencies and improve emergency services.

**RESOLUTION #2010-10:
REIMBURSEMENT RESOLUTION
LAW ENFORCEMENT VEHICLES**

**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 November 25, 2009 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition of law enforcement vehicles including installation of necessary equipment to make vehicle operational as law enforcement vehicles for the Sheriff's 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 [November 25, 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 \$487,720.

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 25th day of January, 2010.

Alex E. Patton, Chairman
Board of Commissioners
ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A

DESCRIPTION OF PROJECT

Capital Improvement Program - Acquisition of vehicles and installation of equipment to make vehicles functional as law enforcement vehicles, including radios, lettering, lights, sirens and other equipment as needed.

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.

Rudy Bauer, 8252 Blades Trail, said he told the Board that Burton Creek would go belly-up. He said the Board did nothing to help them with the Burton Creek situation. He said Fifth-third Bank owns the property now and says they are going to fix the problem. He

questioned whether they would fix all the coves. Mr. Bauer stated that now is the time to place a lien on the property.

Ola Mae Foster stated that she is back before the Board on behalf of the Coalition. She said as instructed, they met with the House of Hope group. She said the proposal was that everyone would be given two rooms and both groups could use the common areas. She said the House of Hope promised to meet with them again, but they have not had any further discussions with them. She said they are working to get the building cleaned up and repaired and asked the Board for any help possible.

Martin Oakes stated that the Board should give the hospital building to LEDA to look at turning it into a taxpaying building and create some jobs. He questioned the numbers on the projections for county staff.

Jason Dragoon, Soccer Coach at East Lincoln, spoke concerning the proposal on the grant for the East Lincoln Rescue Squad park. He said hopefully they will be able to build soccer fields at this park. He said there was a very good turnout at a public meeting held concerning this park from people who were interested in soccer.

Laura Reid, 4612 Hawk's Bay Court, echoed Coach Dragoon's comments. She said she has 2 children who play soccer and knows of hundreds of others who drive across the lake to play. She said public fields in Denver would be awesome.

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

Public Hearing – Road Names – Netta Anderson: Netta Anderson presented the following information

Honey Bee Lane: This road is off of County Line Trail and requires naming due to the fact that there are now three structures that access County Line Trail via this private road. The name proposed is Honey Bee Lane and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Honey Bee Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

Bridlewood Lane: This Road is off N. Ingleside Farm Road and requires naming due to the fact that there are now four structures that access N. Ingleside Farm Road via this private road. The name proposed is Bridlewood Lane and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Bridlewood Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

Baby Bears Lane: This road is off of Springdale Park Drive and requires naming due to the fact that there are now three structures that access Springdale Park Drive via this private road. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Baby Bears Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

Nursing and Adult Care Home Community Advisory Committee – Cindy Kincaid:

Cindy Kincaid introduced members of the Nursing and Adult Care Home Community Advisory Committee and gave an update on their committee, visits to homes, concerns, and requests. She asked for more members to be appointed since the Committee has 3 vacancies currently. She expressed their frustrations on the reluctance of certain facilities to follow through on suggested changes. Ms. Kincaid invited each Commissioner to come on a visit to a Nursing and Adult Care Home Community Advisory Committee.

Capital Project Reports: Burns Whittaker presented the Capital Project Reports.

Water and Sewer Rate Study: Recommendation for Award – Burns Whittaker:

Burns Whittaker stated that five responses were received in response to the Request for Qualifications for the performance of a Water and Sewer Rate Study. After careful and detailed review of the responses, they are recommending that Raftellis Financial Consultants be selected to perform the study. The study will include review of the existing cost of service, rates and revenues; future forecasts; development of recommended rate structures and rates; analysis of and recommendations for a Capacity Development Fee Structure; recommendations for sewer surcharges based on constituents of sewer.

The cost of the study will not exceed \$44,000. The study will begin immediately and be completed by May. A discussion of the methodology is scheduled to be presented to the BOC in a work session planned for 6:00 p.m. on March 1, immediately preceding the regularly scheduled BOC meeting.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the Water and Sewer Rate Study: Recommendation for Award.

Adequate Public Facilities Program – Memorandum of Understanding Revision with the Board of Education and Public Hearing Announcement – Andrew Bryant:
Andrew Bryant presented the following information:

As discussed during the November 12, 2009 Joint Session between the Lincoln County Board of Commissioners and the Lincoln County Board of Education, staff has recommended a change to the Memorandum of Understanding between the two boards as it relates to the Adequate Public Facilities Program. This revision aims to offer more flexibility in capacity determination when a facility is planned or a realignment of

attendance zones is planned as long as the aggregated capacity does not rise above a predetermined threshold. With the Board's consent, staff will proceed with the revision to the Memorandum of Understanding by placing it on the Board of Education's February 9th agenda for their approval and in turn schedule a public hearing for the Board of Commissioners consideration at the February 25th meeting.

By consensus, the Board set the Public Hearing for February 25, 2010 at 6:30 p.m.

PARTF Grant Applications – Rock Springs Park and East Lincoln Rescue Squad Park – Erma Deen Hoyle:

East Lincoln Rescue Squad Park: Guy Cline stated that in 2006, the Commissioners adopted a Comprehensive Parks and Recreation Plan. He stated that in the plan, it calls for a lot of the items that are included in this park. He said on January 7, they had a public hearing at Unity Presbyterian Church and over 110 people showed up in support of the plan. He said they made some modifications based on that meeting. He said it is the intention of the Denver/Lake Norman Rotary Club Foundation to build this park without using any taxpayer money. The matching funds for the \$500,000 they are requesting from the grant would come from money they have on hand in the bank of \$190,000. They also have the building from the East Lincoln Rescue Squad on the market. He said they have the matching portion covered and it would not require any county funds.

Chairman Patton asked what will happen if they get the grant and the building does not sell.

Mr. Cline stated that they will apply for other grants as well. He said he feels the building will sell.

Mr. Wood stated that one of the possibilities is that the County may enter into an agreement with the Rotary Club, where the County would front money from the general fund to be kept in line with the PARFT grant. As they sold the property, they could reimburse the County for that portion.

Mr. Wood mentioned that the Farmer's Market will also be at this location. There is a little over \$100,000 in the budget for the Farmer's Market.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the PARTF Grant Application for Rock Springs Park.

Rock Springs Park: Pete Capece stated that he is the Catawba Springs Representative on the Parks and Recreation Commission. He asked for a joint meeting with the Commissioners to set priorities on recreation needs.

The amount of the grant request is \$390,980. The PARTF grant requires a dollar for dollar local match. The match for this application would include the \$50,000 received from Duke Energy's Wildlife Enhancement Grant.

Rock Springs Park is the 116 acre site, located on Pine Ridge Road, purchased in 2008 for a passive park. Funding for the purchase was a combination of a \$500,000 PARTF grant and a 1% loan through the Source Water Protection Program of NCDENR. A condition of using PARTF funds for property acquisition was to begin development within 5 years of acquisition.

The Planned passive park will provide walking trails, picnic shelter, and play equipment for Lincoln County residents. A neighborhood park was recommended for this area in the comprehensive systemwide plan for recreation prepared in 2006. The public survey conducted for ht plan indicated a high need for walking trails and natural areas and open space.

The initial development planned for the park using these grant funds and match includes a shelter, a kiosk or gazebo for natural and environmental information, a playground, a minimum of ¼ mile paved trail, a wildlife viewing area, restroom/maintenance building, entrance and parking lot, and all utilities. The site is served by county water, but will require a septic system. Future development will include additional natural surface trails for hiking; wildlife habitat and viewing areas; an outdoor classroom; and focus on the historical remnants on site, including the pair of stone chimneys.

Commissioner Carlton asked Mr. Wood how this fits into the budget.

Mr. Wood stated that he agrees with Mr. Capece, it would be good to get the priorities in order. He said from the County's standpoint, there are elements of the West Lincoln Park that need to be completed, a few elements that need to be completed at the Beatties Ford Park. He said those two regional parks need to be finished. He said the County has committed to about \$100,000 for the Farmer's Market in East Lincoln. He said there are about 3 more fiscal years on this and Ms. Hoyle can go back next year for a PARFT Grant. He said the likelihood that the county would receive 2 grants in one year is not good. He said the problem would be the matching funds.

Erma Deen Hoyle stated that there is no harm waiting on the Rock Springs Park, but she would like to apply next year to meet the criteria.

UPON MOTION by Commissioner Carlton, the Board voted 3 – 1 (Klein against) to put this grant request off until next year.

Updated NC Statewide Emergency Management Mutual Aid and Assistance Agreement – George Wood: Mr. Wood stated that Lincoln County currently participates in the NC Statewide Emergency Management Mutual Aid and Assistance Agreement. This agreement makes us eligible to call on other participating jurisdictions for assistance with either man-made or natural disasters, while also spelling out the terms

under which we could also respond to others in need. This gives us added capabilities in event of these disasters.

The state is updating the agreement, which is for one year, but with an annual automatic renewal feature.

Mr. Wood recommended approval of this Agreement.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the updated NC Statewide Emergency Management Mutual Aid and Assistance Agreement.

Motion to Approve Grant for \$19,500 from NC Governor's Highway Safety Program for Traffic Enforcement – This grant is 100% Federal Money – and Approval of Resolution #2010-08: Local Government Resolution for North Carolina Governor's Highway Safety Program – George Wood: Mr. Wood recommended approval of the grant.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Resolution #2010-08: Local Government Resolution for North Carolina Governor's Highway Safety Program.

North Carolina Governor's Highway Safety Program
LOCAL GOVERNMENTAL RESOLUTION
Form GHSP-06-A

(To be completed, attached to and become part of Form GHSP-06, Traffic Safety Equipment Project Contract.)

WHEREAS, the Lincoln County Sheriff's Office _____ (herein called the "Agency")
(The Applicant Agency)
 has completed an application contract for traffic safety funding; and that Lincoln County Board of Commissioners _____
(The Governing Body of the Agency)
 _____ (herein called the "Governing Body") has thoroughly considered the problem

identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE Lincoln County Board of Commissioners _____ IN OPEN
(Governing Body)
 MEETING ASSEMBLED IN THE CITY OF Lincolnton _____, NORTH CAROLINA,
 THIS _____ DAY OF _____, 2010 _____, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Timothy L. Daugherty _____ is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ 19,500.00 _____ to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$ 0 _____ as (Local Cash Appropriation) required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____
(Chairperson/Mayor)

ATTESTED BY _____
(Clerk)

SEAL

DATE _____

Resignation and Appointment of New Successor Trustee for Two COPS Issuances –
George Wood: Mr. Wood stated that the County had appointed First-Citizens Bank and Trust Company as Trustee for 2003 and 2006 issuances of Certificates of Participation for building facilities. Subsequent to that appointment, First-Citizens sold its bond trustee business segment to US Bank National Association. Since they are no longer in that business, First-Citizens has notified the county that it wishes to resign as the Trustee on these two issues, and US Bank has requested it be named as the successor Trustee under the same terms, and US Bank has requested it to be named as the successor Trustee under the same terms and conditions that First-Citizens had agreed upon.

The Trustee is primarily a bookkeeping function in that we write the principal and interest payment checks to them and they keep up with who the current certificate holders are, and remit payment to them on our behalf.

Mr. Wood recommended that the Board approve this resignation by First-Citizens Bank & Trust Company, and the appointment of US Bank National Association as the successor Trustee under the same terms and conditions as First-Citizens was operating under.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Resignation and Appointment of New Successor Trustee for Two COPS Issuances.

Resolution #2010-06: A Resolution Requesting NC General Assembly Prohibit Illegal Aliens from Attending NC Community Colleges – George Wood:

RESOLUTION #2010-06: A RESOLUTION REQUESTING THE NC GENERAL ASSEMBLY PROHIBIT ILLEGAL ALIENS FROM ATTENDING NORTH CAROLINA'S COMMUNITY COLLEGES

WHEREAS, on September 18, 2009, the North Carolina State Board of Community Colleges supported a committee recommendation to allow illegal aliens to enroll in North Carolina's Community Colleges; and,

WHEREAS, although the policy must still make its way through the administrative rules process and could subsequently be allowed or disallowed by the North Carolina General Assembly; and,

WHEREAS, Lincoln County has financial difficulty providing the educational facilities for citizens of this county, and believes those limited resources should not be used to provide an education to people who have entered this country illegally while forgoing other needs of the citizens of this county; and

WHEREAS, The Lincoln County Board of Commissioners, through the offering of this resolution and its outcome to be entered into the official record, wishes to state its full and complete opposition to the ruling of the North Carolina State Board of Community Colleges allowing for illegal aliens to enter North Carolina's Community College System;

NOW, THEREFORE, BE IT RESOLVED that if such request be pursued by the North Carolina Community College System, the Lincoln County Board of Commissioners is requesting the North Carolina General Assembly to fully dismiss such request, and with due finality prohibit illegal aliens from enrolling in the North Carolina Community College System.

BE IT FURTHER RESOLVED that the County Commission is respectfully requesting that the North Carolina Association of County Commissioners is also requested to oppose this action in writing and that such statement of opposition is forwarded to the North Carolina General Assembly.

PASSED AND ADOPTED THIS 25TH DAY OF JANUARY, 2010.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution #2010-06: A Resolution Requesting NC General Assembly Prohibit Illegal Aliens from Attending NC Community Colleges.

Resolution #2010-07: Resolution Requesting the NC General Assembly Oppose Transfer of Secondary Road Program to Counties – George Wood:

RESOLUTION #2010-07: A RESOLUTION REQUESTING THE NC GENERAL ASSEMBLY OPPOSE TRANSFER OF SECONDARY ROAD PROGRAM TO COUNTIES

WHEREAS, Lincoln County is opposed to 1) the transfer of Secondary Road Program funding to the Primary Road Program or any other program that will reduce funding for secondary road construction, improvement, and maintenance; 2) any efforts by the General Assembly or NCDOT and shifting of any transportation costs formerly paid by the State to counties; and 3) any efforts by the General Assembly to appropriate local revenues whether property tax, sales tax, or any other local revenue for State transportation programs or any other State programs; and,

WHEREAS, legislation has now been introduced (Senate Bill 758) that would transfer responsibility for and maintenance of secondary roads from the State to counties beginning in 2011; and,

WHEREAS, according to statistics compiled by the North Carolina Department of Transportation there are 669.58 miles of secondary roads in Lincoln County; and,

WHEREAS, without the continuation of existing State revenue streams to pay for road upkeep and construction, Lincoln County would be forced to raise the property tax rate by 5.6 cents in order to keep up the current level of funding needed to maintain our existing secondary roads; and,

WHEREAS, Lincoln County does not have the equipment or capital to take on this massive additional responsibility;

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners:

1. Strongly oppose SB 758, which, if ratified would transfer responsibility for and maintenance of secondary roads from the State to counties.
2. Direct that a copy of this resolution be transmitted to the members of the North Carolina General Assembly representing Lincoln County with each Commissioner's heartfelt concern about the transfer of this and future State costs to counties
3. Direct that a copy of this resolution be sent to the North Carolina Association of County Commissioners.

PASSED AND ADOPTED THIS 25TH DAY OF JANUARY, 2010.

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution #2010-07: A Resolution Requesting NC General Assembly Prohibit Illegal Aliens from Attending NC Community Colleges.

City Election Expenses – George Wood: Mr. Wood presented a request from Tim Shain, for reimbursement of his expenses for the City Council race. An error was made in the Board of Elections office and Mr. Shain was found not eligible for office in the district. The reimbursement for his expenses, including legal expenses would be \$4,785.31. The other candidate did not want to be reimbursed.

The second request came from the City Manager. He said we contract and do the elections for the City of Lincolnton. They reimburse us for expenses. The estimate is \$11,600 for the election. The City is asking that they not have to pay for the second election.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the requests concerning city election expenses.

Finance Officer's Report: Leon Harmon presented the Finance Officer's Report.

County Manager's Report: George Wood presented the County Manager's Report. He gave an update on the Burton Creek situation saying they did file a lien, but the problem with a lien is in priority order the county is not in line to receive money from this. Fifth-third Bank does appear to be the low-bidder, not upset bids have surfaced. The Burton Creek developers have filed bankruptcy so that has delayed things. He said they have already been in contact with Fifth-third and have given them a deadline to correct the issues the developers did not address. One of the issues is to put a \$500,000 bond back into place. If they do not meet the conditions, the next step will be to rescind the conditional use permit on that development. He said Fifth-third has expressed a willingness to work with them.

Chairman Patton asked if it will be included in the agreement to fix the backyards of the gentlemen.

Mr. Wood said this is covered in the letter. The bond is what gives the security if the coves have to be dredged. He said he is not convinced that it can be proven that all four

coves have had that sort of infill. He said the conditions say it has to be documented that this has been done.

Kelly Atkins stated that Randy Hawkins has been in touch with the residents about the sinkholes. He said that these are Fifth-thirds' first priority.

County Commissioners' Report: Chairman Patton stated that yesterday he was in town to welcome the troops that came back home. He said the rest will be coming home soon and encouraged the Board to try and attend when the remaining troops arrive.

County Attorney's Report: Jeff Taylor reported on Burton Creek, the APFO, and other cases he has worked on.

Vacancies/Appointments: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to appoint Christine Poinsette to the Planning Board.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to extend the terms of members of the Environmental Review Board members: Robert Siler, Kenny Tucker, Lee Garrison, and Michael Jones.

Calendar: Chairman Patton presented the February 2010 calendar.

Other Business:

- Register of Deeds Monthly Report

Closed Session: **UPON MOTION** by Commissioner Arena, the Board voted unanimously to enter closed session pursuant to NCGS 143-315.11(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 Carlton, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Alex Patton, Chairman
Board of Commissioners