

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MAY 17, 2010

The Lincoln County Board of County Commissioners met on May 17, 2010 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman
Bruce Carlton
George Arena
Carrol D. Mitchem

Commissioners Absent:

James A. Klein

Others Present:

George A. Wood, County Manager
Martha W. Lide, Assistant County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Planning and Inspections Director
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the May 17, 2010 meeting of the Lincoln County Board of Commissioners to order.

Reverend J. V. Allen of 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.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

MAY 17, 2010

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

- Ordinance #2010-3: An Ordinance Amending the FY 2010 Budget for the

County of Lincoln, North Carolina

- Approval of May 3, 2010 Minutes

3. 6:35 PM Public Comments
4. 6:50 PM Planning Board Recommendations - Randy Hawkins
ZMA #578 – Kristi Brooks, applicant
5. 7:00 PM Budget Presentation – George Wood
6. 7:30 PM Capital Project Report - Burns Whittaker
7. 7:35 PM Finance Officer's Report - Leon Harmon
8. 8:00 PM County Manager's Report - George Wood
9. 8:05 PM County Commissioners' Report
10. 8:20 PM Vacancies/Appointments
11. 8:25 PM Calendar
12. 8:30 PM Other Business

Adjourn

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda removing Item 6.

Consent Agenda: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the Consent Agenda removing Ordinance #2010-3 and moving it to item 4a.

- Approval of May 3, 2010 Minutes

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 stated that the 90 days is up on Burton Creek. He asked who owns the property. He said the silt still comes into the coves, it's a trash dump, and now is used for a shooting range. He said it's time to come up with some answers. He asked the Board to speak into the microphone so the public can hear.

Jeff Taylor stated that the sale of the property will be on June 15 at 11:00 a.m.

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

Planning Board Recommendations – Randy Hawkins:

Zoning Map Amendment No. 578 – Kristi Brooks, applicant: The Planning Board voted 6-0 to recommend approval.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Planning Board's recommendation and approve staff's recommendation and approve ZMA #578.- Kristi Brooks, applicant, with the site plan and statement and consistency and reasonableness.

Approval of Backhoe Purchases: Martha Lide stated that the Purchasing Agent and the Public Works Department request that the Board approve the purchase of two (2) Caterpillar Model #420E 4 wheel drive backhoes from Carolina Tractor. In the 2010-2011 FY budget, \$80,000.00 was approved for a small trackhoe and \$65,000.00 was approved for a backhoe. After further evaluation by the Department it was determined that the County would be better served if they purchased two backhoes. The cost of the purchase will be \$136,318.00 (\$68,159.00 each) excluding tax.

The Purchasing Agent requested formal bids on April 22, 2010 for the Purchase of a 4 wheel drive backhoe for the Water Department. Bid Request No. 2010-0422 WS was issued on March 26, 2010. Listed under the Special Terms and Conditions, bid item no. 14, the clause was included for the option to purchase additional units. The advertisement stated that the county was only requesting the quantity of one unit however; it was the intention to purchase two units if the funding was available.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve the bid of Carolina Tractor for two Caterpillar Model #430E 4 wheel drive backhoes at a cost of \$136,318.00.

Resolution #2010-23 and Resolution #2010-24: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the Resolutions.

RESOLUTION 2010-23

RESOLUTION TO ASK GOVERNOR BEVERLY PERDUE TO URGE NORTH CAROLINA'S ATTORNEY GENERAL TO JOIN THE LAWSUIT CHALLENGING THE CONSTITUTIONALITY OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

WHEREAS, the United States Congress adopted the Patient Protection and Affordable Care Act on March 21, 2010, and President Obama signed the bill into law on March 23, 2010; and

WHEREAS, the said legislation mandates that individuals purchase health care insurance or suffer severe financial penalties; and

WHEREAS, Congress may only pass laws if it is authorized to do so under Article I, Section 8, of the United States Constitution; and

WHEREAS, Congress lacks the power under Article I, Section 8, including the Commerce Clause, to require individuals to purchase health insurance; and

WHEREAS, mandating that individuals purchase health insurance is an attempt to penalize such individuals for not engaging in an activity; and

WHEREAS, such federal regulation of inactivity is unprecedented, unauthorized by the Commerce Clause, and unsupported by Commerce Clause jurisprudence; and

WHEREAS, an estimated 500,000 additional North Carolinians will become eligible for Medicaid under this new law; and

WHEREAS, expenditures for Medicaid already constitute 16 percent of the North Carolina General Fund, and Medicaid is the fastest-growing portion of the state budget; and

WHEREAS, at least twenty states so far have joined in a lawsuit to prevent the imposition of this unconstitutional mandate; and

WHEREAS, North Carolina has long been known as first in freedom; and

WHEREAS, Governor Beverly Perdue is the most senior elected official in state government in North Carolina, and, as such, has the right to request that the Attorney General take action on behalf of and for the benefit of the citizens of the state;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Lincoln County Board of Commissioners hereby asks Governor Beverly Perdue to urge North Carolina Attorney General Roy Cooper to join in the lawsuit challenging the constitutionality of the Patient Protection and Affordable Care Act in order to protect the freedom of North Carolinians and the sovereignty of our great state.

BE IT FURTHER RESOLVED that copies of this resolution will be distributed to Governor Beverly Perdue, Attorney General Roy Cooper, all Boards of County Commissioners in the state, and all members of the North Carolina General Assembly.

Adopted this 17th day of May, 2010.

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

RESOLUTION 2010-24

**RESOLUTION TO URGE NORTH CAROLINA'S ATTORNEY GENERAL
TO JOIN THE LAWSUIT CHALLENGING THE CONSTITUTIONALITY OF
THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**

WHEREAS, the United States Congress adopted the Patient Protection and Affordable Care Act on March 21, 2010, and President Obama signed the bill into law on March 23, 2010; and

WHEREAS, the said legislation mandates that individuals purchase health care insurance or suffer severe financial penalties; and

WHEREAS, Congress may only pass laws if it is authorized to do so under Article I, Section 8, of the United States Constitution; and

WHEREAS, Congress lacks the power under Article I, Section 8, including the Commerce Clause, to require individuals to purchase health insurance; and

WHEREAS, mandating that individuals purchase health insurance is an attempt to penalize such individuals for not engaging in an activity; and

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WHEREAS, North Carolina has long been known as first in freedom;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Lincoln County Board of Commissioners urges North Carolina Attorney General Roy Cooper to

join in the lawsuit challenging the constitutionality of the Patient Protection and Affordable Care Act in order to protect the freedom of North Carolinians and the sovereignty of our great state.

BE IT FURTHER RESOLVED that copies of this resolution will be distributed to Governor Beverly Perdue, Attorney General Roy Cooper, all Boards of County Commissioners in the state, and all members of the North Carolina General Assembly.

Adopted this 17th day of May, 2010.

LINCOLN COUNTY

By: _____

Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

Budget Adjustments: Leon Harmon reviewed the budget adjustments with the Board.

**ORDINANCE #2010-03: 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 amendment; as shown on the attachments herein; and

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

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 17th day of May, 2010.

BY: _____

Alex E. Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt Ordinance #2010-03.

Budget Presentation – George Wood: George Wood presented the budget to the Board. He said the budget work session will be Monday, May 24, 2010 at 6:00 p.m.

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

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

County Manager's Report: George Wood presented the County Manager's Report. He reminded the Board of the Budget Work Session in the Board of Commissioners' Room at 6:00 p.m. May 24.

County Commissioners' Report: Nothing reported.

County Attorney's Report: Jeff Taylor gave updates on Burton Creek, Vickie Rauch, and the Mullinax junkyard case.

Vacancies/Appointments: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to make the following appointments:

Appointments:

Gaston Community Action

- Appoint Vonda Friday (to replace Cathy Davis)

Historic Properties Commission

- Appoint Laura Simmons (ex-officio)
- Appoint Cynthia Robin Evans
- Appoint Edward Little

Advisory Board for Hospital

- Billye Roland
- Larry Cagle
- Neil Alexander
- Harry Brogden

Calendar: Chairman Patton presented the June 2010 calendar.

Recess: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to recess the meeting until May 24, 2010 at 6:00 p.m. for a budget work session.

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners

