

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MAY 19, 2008

The Lincoln County Board of County Commissioners met in regular session on May 19, 2008 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:

Thomas R. Anderson, PE, Chairman
Alex E. Patton, Vice Chairman
Bruce Carlton
James A. Klein
Marie Moore

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Erma Deen Hoyle, Recreation Director
Steve Gilbert, Public Works Director
Barry McKinnon, Sr. Utility Engineer
Leon Harmon, Finance Director

Call to Order: Chairman Anderson called the May 19, 2008 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Pastor Richard Gould, Asbury United Methodist Church, gave the Invocation. Chairman Anderson led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Patton, the Board voted unanimously to adopt the agenda deleting Item 5 and adding a Closed Session.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

MAY 19, 2008

6:30 PM Call to Order

6:31 PM Invocation – Pastor Richard Gould
Asbury United Methodist Church

6:32 PM Pledge of Allegiance

1. 6:33 PM Adoption of Agenda

2. 6:34 PM Consent Agenda
- Approval of Minutes
- Budget Adjustments 101 - 103

3. 6:35 PM Public Comments

4. 7:05 PM Recommendation from Planning Board – Randy Hawkins

CUP #284 John and Linda Hunsucker, applicants
ZMA #561 Lincoln County, applicant
ZTA #559 Lincoln County, applicant
SOA #29 *Lincoln County, applicant*

5. 7:30 PM Source Water Protection – Rusty Rozzell

6. 7:45 PM Presentation of the Home and Community Care Block Grant FY 09
Funding Plan – Karen Leonhardt

7. 7:55 PM Resolution Relating to the Canvass of the Returns of the Special
Bond Referendum Held in the County of Lincoln, North Carolina
on May 6, 2008 Upon the Question of Approving \$44,600,000
School Bonds and Determining the Results Thereof

8. 8:05 PM Grants Update – Erma Deen Hoyle

9. 8:15 PM Schedule Budget Public Hearing for June 2, 2008 at 6:30 PM

10. 8:25 PM Discussion of Worker's Compensation Insurance Renewal –
George Wood

11. 8:30 PM Drought Update – Steve Gilbert

12. 8:40 PM Update on Sewer Plant – Steve Gilbert

13. 8:45 PM Capital Project Reports – Steve Gilbert

14. 8:50 PM Finance Officer's Report

15. 8:55 PM County Manager's Report

16. 9:00 PM County Commissioners' Report
17. 9:05 PM County Attorney's Report
18. 9:10 PM Vacancies/Appointments
19. 9:15 PM Calendar
20. 9:20 PM Other Business

Recess to Tuesday, May 20, 2008 at 6:00 p.m.

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

- Approval of Minutes
- Budget Adjustments 101 – 103

No. 101: Appropriate additional \$4,500 to Lake Norman Marine Commission as approved 5/5/08

No. 102: Increasing expenditure and revenue line items for available funds to be used for Adult Day Care Services (Allocation received from State Office)

No. 103: Extra state dollars to be spent to improve clinical services/supplies for indigent clients

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

Michael Cooney stated that having heard the comments at the last meeting, public comments should be sworn statements. He said the idea of using county resources to mount a lawsuit against Joann Hager is preposterous. He stated that Joann has never been fined in 10 years of existence, the ordinance language was changed to get her, and they changed the way they investigate it and it hasn't happened. He stated that this is a witch hunt, a vendetta, and appears to be retaliatory in nature. He stated that this is a family feud between neighbors.

Nolan Nance, 2395 Smokey Dan Kennel Road, Vale, stated that at the shooting range, during the week anybody can come and go shooting as they want to. He said there are bullets lying around, they don't clean up. The dirt mounds where the bullets go into are destroyed and the bullets go into other people's property causing damage. He said he bought 10.5 acres near the shooting range and when they are shooting he cannot go onto the property. Mr. Nance presented pictures of the shooting range and the damage done to surrounding property. He said he is not really wanting to close them down, but there should be guidelines for shooting ranges. He stated that he would like to see something done before someone is hurt or killed. Mr. Nance presented a petition with between 30 and 40 names from the neighborhood on it.

Judy Fiddler stated that she and her husband are the closest neighbors to Tri County Animal Rescue. She stated that the dogs do bark, but so do the dogs at other homes in the neighborhood. She stated that she is not kept awake from barking dogs and does not feel the need to vomit when she walks out her door. Ms. Fiddler stated that she lives a normal life with no interruptions from the dogs. She said that she does not feel that suing the Hagers over complaints from a few neighbors is a responsible use of tax money.

Dennis Fiddler, 3326 Al Hager, read a letter for Bill and Rebecca Morrison, who could not be at the meeting due to health problems. The letter said they do not want tax dollars used to sue a non-profit facility.

Chairman Anderson asked the Manager to look into the situation with the shooting.

Renea Ballard, 3376 Ballard Farm Lane, stated that this not a witch hunt or a family feud. She stated that the neighbors just want some respect and peace and quiet. She stated that any laws, amendments, or changes to rules and regulations that can be changed to prevent this from happening to anyone else should happen.

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

Recommendation from Planning Board – Randy Hawkins:

Conditional Use Permit No. 284 – John and Linda Hunsucker, applicants: The Planning Board voted 8-0 to recommend approval with the following conditions:

- 1) No more than five public events (two-day festivals or one-day shows) will be held per calendar year.
- 2) No more than two weeks or 10 individual days of workshops will be held per calendar year.
- 3) No festival, show or workshop will last past 10:30 p.m.
- 4) Festivals, shows and workshops will be restricted to bluegrass, gospel and country music.
- 5) Attendance at festivals and shows will be limited to no more than 750 people at any one time.
- 6) No alcohol will be sold or allowed on the premises.
- 7) Security will be provided at all public events.
- 8) A driveway permit must be obtained from the N.C. Department of Transportation.
- 9) The driveway must be paved for a distance of at least 15 feet from the edge of the pavement on Coot Williams Road.
- 10) All required building, electrical, plumbing and Environmental Health permits must be obtained.

FINDINGS OF FACT

Application #: CUP #284 Date: May 5, 2008
Applicant Name: John and Linda Hunsucker

Applicant Address: 2186 Belmar St. Newton NC 28658
Property Location: Coot Williams/Leonhardt Roads Existing Zoning: B-G
Proposed Conditional Use: Outdoor bluegrass/country music festivals and instrument workshops and training sessions

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES 8-0 NO _____
FACTUAL REASON CITED: With conditions as recommended.
2. The use meets all required conditions and specifications. YES 8-0 NO _____
FACTUAL REASON CITED: Will meet all required conditions and specifications.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES 8-0 NO _____
FACTUAL REASON CITED: The plans as presented, no opposition from neighbors.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES 8-0 NO _____
FACTUAL REASON CITED: Is in harmony with area.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Findings of Fact for Conditional Use Permit No. 284 – John and Linda Hunsucker, applicants and the conditions as set forth by the Planning Board.

UPON MOTION by Commissioner Patton, the Board voted unanimously to accept the Planning Board's recommendation and approve Conditional Use Permit No. 284 subject to the ten conditions presented.

Zoning Map Amendment No. 561 – Lincoln County, applicant: The Planning Board voted 8-0 to recommend approval.

Zoning Amendment No. 561 – Statement of Consistency and Reasonableness

Case No. ZMA #561
Applicants: Lincoln County
Parcel ID#: 16434 (36-acre portion)
Location: Finger Mill Road and Maiden Highway
Proposed
Amendment: Rezone from R-T and I-G to B-G

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: The Land Use Plan classifies this area as Regional Business, an area suitable for a wide array of retail, business and support services.

This proposed amendment is reasonable and in the public interest in that: This property is located near the U.S. 321/Maiden Highway interchange and near the Lincoln County

Industrial Park. Public water and sewer are available in this area. Part of this property is currently zoned industrial. This property adjoins property that is zoned B-G. Commercial development of this property would complement the industrial park.

UPON MOTION by Commissioner Klein, the Board voted unanimously to accept the Planning Board's recommendation and the Statement of Consistency and Reasonableness and approve Zoning Map Amendment No. 561 – Lincoln County, applicant.

Zoning Text Amendment No. 559 – Lincoln County, applicant: The Planning Board voted 7-1 to recommend the proposal be withdrawn in conjunction with the recommendation in Subdivision Ordinance No. 29. (Rezoning to a Planned District classification would require a traffic impact analysis and the provision of common open space.)

UPON MOTION by Commissioner Carlton, the Board voted unanimously to concur with the Planning Board's recommendation for Zoning Text Amendment No. 559 – Lincoln County to withdraw the request.

Subdivision Ordinance Amendment No. 29 – Lincoln County, applicant: Andrew Bryant presented the following:

The Planning Board voted 7-1 to recommend approval of the proposal as revised. The revised proposal includes this text: "All preliminary or final plats proposing 20-50 lots shall be submitted to the Planning Board for their recommendation and forwarded to the Board of Commissioners for their approval, disapproval, or approval with conditions. The Subdivision Administrator may recommend that a traffic impact analysis be performed and be submitted along with the plat. The Planning Board and/or Board of Commissioners may require additional information and/or may add fair and reasonable conditions to protect the health, safety and welfare of the citizens of Lincoln County."

Commissioner Klein asked about a sunset provision. Mr. Bryant stated that this was a proposal put out before the meeting by Commissioner Carlton that this could have a possible sunset date to line up with the adoption of the UDO. Mr. Bryant said the sunset date would be November 30, 2008.

Commissioner Patton asked where this would apply.

Mr. Bryant stated that an applicant would come into the office for a pre-submittal meeting to talk about design and would go over the traffic counts, level of service, and corridor segments in that area. They would make a determination within a couple of days

Commissioner Patton stated that this is only being used as a stop-gap measure until the UDO is adopted.

Commissioner Carlton stated that there was a meeting last week between realtors/homebuilders and the Planning Board. He stated that stated that this is an interim

step to carry us over to the UDO. He stated that this will hold the builder up a maximum of 2 weeks in the process.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to concur with the Planning Board and approve Subdivision Ordinance No. 29 – Lincoln County, applicant, as revised, with the sunset date of November 30, 2008 in it.

Presentation of the Home and Community Care Block Grant FY 09 Funding Plan –

Karen Leonhardt: Karen Leonhardt reviewed the HCCBG funding plan. Lincoln County will be eligible to receive \$438,565 for fiscal year 09 for the delivery of aging services to our older adults in Lincoln County. This is an increase of \$12,754 from last year. Ms. Leonhardt stated that this requires a 10% match from Lincoln County. She asked for permission to apply for these funds and to approve a 10% match.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the funding plan and the 10% match from the county.

Resolution Relating to the Canvass of the Returns of the Special Bond Referendum Held in the County of Lincoln, North Carolina on May 6, 2008 Upon the Question of Approving \$44,600,000 School Bonds and Determining the Results Thereof:

A regular meeting of the Board of Commissioners for the County of Lincoln, North Carolina, was held at the Lincoln County Citizens Center in Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M. on May 19, 2008.

Present: Chairman Thomas R. Anderson, P.E., presiding, and Commissioners Alex E. Patton, Bruce Carlton, James A. Klein and Marie Moore.

Absent: none.

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The Board of Commissioners received from the Lincoln County Board of Elections a certified copy of the proceedings of said Board of Elections taken on May 13, 2008, evidencing said Board's determination of the results of the canvass of the returns of the special bond referendum held in the County of Lincoln on May 6, 2008 upon the question of approving \$44,600,000 School Bonds of said County.

After said proceedings had been considered and reviewed by the Board of Commissioners, Commissioner Anderson introduced the following resolution which was read by title:

RESOLUTION RELATING TO THE CANVASS OF THE RETURNS
OF THE SPECIAL BOND REFERENDUM HELD IN THE COUNTY
OF LINCOLN, NORTH CAROLINA ON MAY 6, 2008 UPON THE
QUESTION OF APPROVING \$44,600,000 SCHOOL BONDS AND
DETERMINING THE RESULTS THEREOF

BE IT RESOLVED by the Board of Commissioners for the County of Lincoln:

Section 1. The Board of Commissioners for the County of Lincoln having received from the Lincoln County Board of Elections a certified copy of the proceedings of said Board of Elections taken on May 13, 2008, evidencing said Board's determination

of the results of the canvass of the returns of the special bond referendum held in the County of Lincoln on May 6, 2008 upon the question of approving \$44,600,000 School Bonds of said County, does hereby declare and certify the results of said referendum to be the results which are set forth in the following statement of the results of said referendum, which statement has been prepared by said Board of Commissioners:

STATEMENT OF THE RESULTS
of the
SPECIAL BOND REFERENDUM
held in the
COUNTY OF LINCOLN, NORTH CAROLINA
on May 6, 2008
UPON THE QUESTION OF APPROVING
\$44,600,000 SCHOOL BONDS

At a special bond referendum held in the County of Lincoln on May 6, 2008, 46,517 voters were registered and qualified to vote.

At said referendum 10,233 votes were cast for the order adopted on March 3, 2008 authorizing not exceeding \$44,600,000 School Bonds of the County of Lincoln, North Carolina, for the purpose of providing funds, together with any other available funds, for erecting additional school buildings and other school facilities, remodeling, enlarging and reconstructing existing school buildings and acquiring necessary land and equipment therefor in order to provide additional school facilities in the County of Lincoln, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 6,661 votes were cast against said order, and a majority of the qualified voters of said County who voted thereon at said referendum having voted in favor of the approval of said order, said order was thereby approved and is in force and effect.

Board of Commissioners
for the County of
Lincoln, North Carolina

Section 2. The Clerk to the Board of Commissioners shall file a copy of the foregoing statement of the results of said referendum in her office and shall publish such statement once in The Lincoln Times - News. A statement in substantially the following form shall be published with the foregoing statement:

Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days after May 23, 2008.

Board of Commissioners
for the County of
Lincoln, North Carolina

Section 3. This resolution shall take effect upon its passage.

Upon motion of Commissioner Patton, seconded by Commissioner Carlton, the foregoing resolution entitled: "RESOLUTION DECLARING THE RESULTS OF THE SPECIAL BOND REFERENDUM HELD IN THE COUNTY OF LINCOLN, NORTH CAROLINA ON MAY 6, 2008 UPON THE QUESTION OF APPROVING \$44,600,000 SCHOOL BONDS" was passed by the following vote:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.

Noes: none.

Grants Update – Erma Deen Hoyle: Erma Deen Hoyle stated that West Lincoln Park has been awarded a \$50,000 grant from The Timken Foundation for the next phase of development. Ideas discussed have been a splash pad, a fireplace for the picnic shelter, or a possible trail expansion and other amenities.

Ms. Hoyle stated that the PARTF application for the Rock Springs Park was successful. A \$500,000 grant was awarded. She stated that all indications are that the \$1.6 million loan request from Sourcewater Protection Plan is on track for approval.

Schedule Budget Public Hearing for June 2, 2008 at 6:30 PM: George Wood, County Manager, presented the date of June 2, 2008 at 6:30 PM for the 2008-09 budget public hearing.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to schedule the budget public hearing for June 2, 2008 at 6:30 p.m.

Chairman Anderson called for a five minute recess and called the meeting back to order.

Discussion of Worker's Compensation Insurance Renewal – George Wood: Mr. George Wood, County Manager, advised the Board that there is a reduction in the Worker's Comp. Insurance Renewal. This is primarily the fact that the experience modification went down. There will be a decrease from \$807,294 to \$695,403, which is a 13.8% decrease. Our consultant recommended staying with premium base instead of ASO for another year.

Drought Update – Steve Gilbert: Steve Gilbert gave a drought update.

Update on Sewer Plant – Steve Gilbert: Steve Gilbert gave an update on the sewer plant.

Capital Project Reports – Steve Gilbert: Steve Gilbert presented the Capital Project Reports.

Mr. Gilbert presented the Board with a certificate of achievement for source water protection. This effort was spearheaded by Ron Bost and the Lincoln Natural Resources Committee.

Chairman Anderson asked Mr. Wood to prepare a letter to those involved thanking them for their work and congratulating them on receipt of the award.

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

County Manager's Report: Mr. Wood presented the Board with copies of the budget and stated that discussions of this will begin tomorrow night at 6 p.m. He stated that he

will try to cut back on Friday night if possible. He said the Superintendent of the schools informed him that they have a conflict on all the dates provided and will get back with dates they have available.

County Attorney's Report: Jeff Taylor deferred his report to Closed Session.

Vacancies/Appointments: **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the appointment of Rondel Burke to the Lincolnton Planning Board ETJ position.

Calendar: Chairman Anderson presented the June 2008 calendar.

Closed Session: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to enter closed session pursuant to N.C.G.S 143-318.11

- (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.
- (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease

No action was reported from Closed Session.

Recess: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to recess the meeting until Tuesday, May 20, 2008 at 6:00 p.m.

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners