

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 18, 2012

The Lincoln County Board of County Commissioners met June 18, 2012 at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman
George Arena, Vice Chair
James A. Klein
Carl E. Robinson, Jr.
Carrol Mitchem

Others Present:

George A. Wood, County Manager
Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board

Call to Order: Vice Chairman Arena called the June 18, 2012 meeting of the Lincoln County Board of Commissioners to order, due to the fact that Chairman Patton was running a few minutes late.

Commissioner Robinson gave the Invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Klein, the Board voted unanimously to adopt the Agenda as presented.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, June 18, 2012
6:30 PM

James W. Warren Citizens Center
115 West Main Street
Lincolnton, North Carolina

Call to Order

Invocation – Commissioner Robinson

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 - Waived fees
 - Apple Queen Pageant
 - Retirement of 2 K-9's
 - Ordinance #2012-10: An Ordinance Amending the FY 2012 Budget for the County of Lincoln, North Carolina
 - Surplus Property
3. Planning Board Recommendations- Randy Hawkins

ZMA #596 Bill Beam, applicant
 CUP #313 William and Threasa Chatham, applicants
 CUP #314 Strata Solar, LLC, applicant
 CUP #315 Dellinger Properties, LLC
4. Public Comments
 (15 minutes allowed per Rules of Procedure – 3 minutes per person)
5. CDBG Document Updating for NC Tomorrow Grant - Andrew Bryant
6. S&ME Report on Burton Creek Erosion Concerns - Don Chamblee
7. Presentation on Air Quality Non Attainment Designations - Josh Grant
8. Fire Code Appendices - Martha Lide
 Resolution #2012-22: Resolution Amending the Fire Prevention Code, Fees, and Penalties Schedule of the County of Lincoln, North Carolina
9. Special Events and Mass Gatherings Ordinance - Martha Lide
10. Finance Officer's Report - Deanna Rios
11. County Manager's Report
 - Property Tax Collection Report
 - Savings from Purchasing Policy/Procedures
 - GFOA Certificate of Achievement for Excellence in Financial Reporting
12. County Commissioners' Report
13. County Attorney's Report
14. Vacancies/Appointments
15. Calendar
16. Other Business
 - Register of Deeds Report
17. Motion to Enter Closed session pursuant to § 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 and (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; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

18. Recess to June 28, 2012 at 6:30 p.m.

Consent Agenda: UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the Consent Agenda as presented.

- Waived fees
 - Apple Queen Pageant
- Retirement of 2 K-9's
- Ordinance #2012-10: An Ordinance Amending the FY 2012 Budget for the County of Lincoln, North Carolina
- Surplus Property

**ORDINANCE #2012-10: AN ORDINANCE AMENDING THE FY 2012 BUDGET
FOR THE COUNTY OF LINCOLN, NORTH CAROLINA**

THAT WHEREAS, the Lincoln County Board of Commissioners adopted the FY 2012 Budget by approving Ordinance #2011-11 on June 20, 2011; 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 amendments;

NOW THEREFORE BE IT ORDAINED AND ESTABLISHED by the Board of Commissioners of Lincoln County, North Carolina, that the FY 2012 Budget previously adopted is hereby amended as follows:

Section 1. That the budget amendments attached hereto, and incorporated herein by reference as Exhibit A to Ordinance #2012-10, are hereby approved and adopted as amendments to the FY 2012 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 21st day of May, 2012.

BY:

Alex E. Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

EXHIBIT A to Ordinance #2012-10

Budget Amendments numbered 126.

Recommendations from Planning Board:

Randy Hawkins presented the following recommendation:

ZMA #596 Bill Beam, applicant - A request to rezone a 1.0-acre parcel from B-N (Neighborhood Business) to R-S (Residential Suburban). The property is located at 997 NC 274 Hwy., on the east side of N.C. 274 about 800 feet south of the Wehnt Store Road intersection, in North Brook Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve ZMA #596 – Bill Beam, applicant based on the Planning Board's recommendation.

CUP #313 William and Threasa Chatham, applicants A request for a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. The 8.2-acre parcel is located on the east side of Hulls Grove Church Road about 3,000 feet north of N.C. 27 in North Brook Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Findings of Fact and Conditional Use Permit #313 – William and Threasa Chatham, applicant.

CUP #314 Strata Solar, LLC, applicant A request for a conditional use permit to establish a solar power generation facility in the R-R (Rural Residential) district. The proposed 48-acre site is located at 5531 W. NC 27 Hwy., about 2,000 feet south of the intersection of N.C. 27 and Hebron Church Road, in North Brook Township.

The Planning Board voted 9-0 to recommend approval.

Commissioner Mitchem asked to be recused from voting since he is the property owner and Commissioner Robinson asked to be recused due to the fact that he works for Duke Energy.

UPON MOTION by Commissioner Klein, the Board voted 3 – 0 to approve the findings of fact and CUP #314 – Strata Solar, LLC, applicant.

CUP #315 Dellinger Properties, LLC A request for a conditional use permit to operate an events venue in the I-G (General Industrial) district. The proposed 5.5-acre site is located at 848 South Fork Rd., on the northeast corner of South Fork Road and Laboratory Road, in Lincolnton Township.

The Planning Board voted 9-0 to recommend approval, with the condition that a crosswalk be provided on South Fork Road for the parking area on the opposite side of the road subject to the approval of NCDOT.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approved CUP #315 Dellinger Properties, LLC based on the findings of fact with the condition.

Public Comments: Chairman Patton opened Public Comments.

Rudy Bauer spoke concerning the Howard Lane house, internet sweepstakes, smoking in public buildings and the recurring stink at the pump station at Blades Trail/Burton Lane.

Randy Kelley, President and CEO of CaroMont Health, gave some background information on CaroMont and said they will be opening a cancer center in Lincolnton in August.

Rick Varterasian, Director of Cancer Service Line for CaroMont Health, said the cancer center will open on August 20 in Lincoln County and will offer radiation oncology services.

Bill Beam asked for a waived fee on his rezoning request since his dad's old garage was incorrectly zoned.

Being no additional speakers, Chairman Patton declared the Public Comments section closed.

CDBG Document Updating for NC Tomorrow Grant – Andrew Bryant: Andrew Bryant presented the following information:

Lincoln County is serving as a sponsor for the NC Tomorrow Regional Grant Application for Centralina Council of Governments (CCOG). This regional effort is part of an overall statewide effort by all COGs. This is a \$50,000 Community Development Block Grant (CDBG) that is being offered by the US Department of Economic Development, North Carolina Department of Commerce –Community Development Division and the SAS Institute of Cary, NC. The overall purpose is to create a Statewide Comprehensive Economic Development Strategy (CEDS).

The Statewide CEDS will serve as a “blueprint” for growth and development based on common sense, sustainable best practices and “one version of the truth” provided by data collection and analysis from the SAS Institute. The SAS Institute is developing software specifically for the initiative, North Carolina Regional Economic Prosperity Strategy (REPS). REPS will be a “tool” for use by planning professionals, economic development professionals, elected officials and private industry developers. REPS will also provide a tool for our measuring success. The blueprinting process will be built around the following four strategic goals:

Build a Regional Competitive Advantage

Establish and maintain a robust regional infrastructure

Create revitalized and vibrant communities

Leverage the marketplace

As a part of this effort two of our grant specific documents that we use for our ongoing Scattered Site Housing efforts need to be updated to include all CDBG grants applications. The Section 3 Plan ensures that efforts are made to award contracts under the CDBG program that will have local economic benefit for low- and very low-income persons. The other document in need of updating is a Section 504 survey which federal regulations require CDBG service providers to perform as a self-assessment of current policies and practices to determine that requirements of Section 504 of the Rehabilitation Act of 1973 are met (24 CFR Part 8). The purpose of Section 504 is to provide that persons with disabilities will not be excluded from participation in, or denied the benefits of, or be discriminated against participation in federally funded programs or activities, solely by reason of a person’s disabilities. The applicant certifies that a Section 504 self-assessment has been performed and is on file or a Section 504 self-assessment will be performed during the CDBG grant period.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Section 3 and Section 504 documents for all future CDBG grants.

S&ME Report on Burton Creek Erosion Concerns - Don Chamblee introduced Darin Piney and Michael Wolfe with S&ME.

Darrin Peine, with Soils, Materials, Engineering, said they were contacted concerning sedimentation in Burton Creek. He presented a footprint of the coves of concern near Burton Creek.

Michael Wolfe, Natural Resources Senior Consultant with S&ME, said he directed the sampling protocol at Burton Creek. He said he

1.0 PROJECT BACKGROUND

Lincoln County contacted S&ME to discuss concerns regarding sediment accumulation in some coves of Lake Norman near Burton Creek. To provide Lincoln County with an understanding of the current status of lake bottom sediments in these coves, S&ME proposed to collect sediment core samples at multiple locations within the concerned coves (S&ME Proposal No. 1357-24094-11 rev1).

2.0 PROCEDURE AND METHODS

Pursuant to the scope of services identified in the aforementioned proposal, S&ME natural resources professionals Michael Wolfe and Jesse Degnan visited the subject Lake

Norman coves, near the Burton Creek drainage (see Appendix I - Figure 1), on December 7, 13 and 15, 2011. S&ME utilized a motorized aluminum boat to gain access to the coves, deploying from Beattys Ford Access Area at the end of Unity Church Road. The first visit was a preliminary reconnaissance to review access through the coves, assess water depth, and evaluate sampling procedure feasibility. The subsequent visits were to collect the lake bottom sediment core samples. Based on the findings of the first site visit, S&ME determined that implementation of the proposed sampling procedures would be feasible.

There were five coves sampled for sediments (Figure 1). Samples were collected from either three or four locations in each cove, with the greater number of locations sampled for the larger coves. Sampling locations closest to the landward end (longitudinally) of the cove were designated as 1.1 (for cove #1), 2.1 (for cove #2), 3.1 (for cove #3), etc. Moving outward from the landward side of the cove to the main body of the lake, the sample location designations progressed in numbering as, for example, 1.1, 1.2, 1.3, etc. Figure 2 shows the approximate locations for sampling in each cove.

At each sampling location within a cove, samples were principally collected by use of a Wildco Tube Corer (Photo 02). The Wildco Corer is a 20" long steel sampler that can either be pressed into the lake bed by extension handle or dropped by line from the side of the boat in deeper water. As water depth in the coves did not exceed 15 feet, S&ME used a handle with extension rods to press the corer into the lake bottom. The corer was then withdrawn and pulled back up to the boat, where the sediment sample was extruded from the corer. The sample was then wrapped in foil and plastic for transport and storage (until the sediment core was to be examined) and labeled.

The approximate location of each sampling point was acquired as a latitude/longitude coordinate by use of a handheld global positioning system (GPS) unit. Additionally, the water depth was measured at each sampling location, and a representative photograph was taken of the vicinity to help enable revisiting the site, if necessary. Water depth was measured by extending a surveyor's rod to touch lake bottom and recording the point of water level on the rod.

In addition to collecting samples with the Wildco corer, at some locations an additional sample was collected by means of a one-inch (inside diameter) PVC pipe. The pipe was placed vertically into the water from the side of the boat and pushed to lake bottom; then it was hammered at the top to penetrate the lake bottom to a depth of about 36 inches. Additional length of pipe was attached to the top as necessary. Following completion of penetration, water was siphoned from the pipe by a peristaltic pump. The pipe was then capped at the top-end and pulled back into the boat, where the end section containing sediment was cut off, capped or plugged, and labeled. One reason for taking a sample by this means was to acquire a second, longer sample at the shore end of each of the coves. Also, a PVC pipe sample was taken at some locations where it seemed that the Wildco sample might be insufficient in length to provide satisfactory representation of the sediment conditions. Determination of whether review of the supplemental PVC sample from these locations would be necessary was to be made after examining the Wildco core samples.

At S&ME's office, the sediment samples were examined and characterized. During characterization, the length of the sediment core was measured, and then cut lengthwise with a knife. As practicable one half of the longitudinal cross-section was used for

characterization; the other half was left undisturbed as a preserved sample. In some cases the core sample was too unconsolidated to retain form as a preserved half core.

Characterization along the length of the sample was made according to grain texture (i.e., sand, silt, clay) and Munsell chart color. Representative photographs of the sample cores were taken for inclusion in the report. For this project, sediment texture was subjectively assessed by touch, i.e., the feel of the sediment grain size to fingers. Category grain size can vary somewhat according to different references sources. According to the US Geological Service (USGS), the grain size of sand (principally silica) can range from 2 millimeters (mm) to 0.0625 mm. Within that range, sand can be further described as very coarse (larger grain size) to very fine (small grain size). Furthermore, according to USGS, silt is smaller than sand, (0.062 - 0.004 mm), and clay particles (the smallest grain category) are 0.004 – 0.00024 mm in diameter. Sands, silts and clays present different textures and consistencies when handled. The roughness to feel of sand grains is distinctive from the smoothness of silts. Clays, because of their very small grain size, tend to hold together more than silts. Clays, though not differentiated simply by touch alone due to their small particle size, can be spread into thin ribbons when pressed apart oppositely between the fingers. Silts, alternatively, tend to smear apart into discrete clumps when pressed apart between the fingers.

3.0 FINDINGS AND DISCUSSION

It was not S&ME's intent, nor was it a task of S&ME's scope of services, to try to sample and characterize sediment cores that extended in depth all the way to the original lake bottom soils, or to provide a certain determination of the provenance and timing of any specific layer of sediment. Lake Norman was created in 1964 with the completion of Cowan's Ford Dam. In the decades since that time the typical erosional processes in the watershed, including the Burton Creek area, would result in the original lake bottom likely being covered in multiple feet of sediment in various locations. Land use operations and development construction around the shoreline, and upstream in the higher watershed, would have continually and repeatedly contributed to sediment accumulations in the lake bottom since the original date of impoundment. S&ME proposed to provide Lincoln County with an understanding of the nature of the sediment layer relatively near to the surface of the lake bottom in the Burton Creek area. These sediment samples were examined for indications of notable differences in the sediment layers of the subject study coves; such information could possibly help provide for Lincoln County an understanding of the current erosion and sedimentation dynamics of the watershed and suggest some potential, related management considerations. That noted, following are some details of the findings and related discussion. Specific descriptions of each core sample are provided in Tables 1-5 (Appendix II); photographs of the core samples accompany the tables (Appendix III).

With respect to a general visual appearance, none of the coves gave the impression of being impaired as a natural or recreational aquatic habitat. Though surveying for weedy aquatic species (e.g., hydrilla) was not part of its scope, S&ME did perform a visual reconnaissance for aquatic weeds and/or possible other notable concerns and did not observe any obvious significant threats or degradations. Also, the water depths measured at the points of sample collection all seemed adequate for local normal vessel operations during normal lake level conditions. It is noteworthy that the depths of coves 3 and 4 were generally shallower than coves 1, 2 and 5. This seems likely to be a consequence of the fact that coves 3 and 4 are fed by blueline streams, identified as intermittent on the USGS Lake Norman North (1993) topographic quad map. Because of stream discharge to these coves, there would likely be a higher natural volume of sediment being delivered on a recurring basis than would be seen for the other coves.

Lake levels during the two dates S&ME conducted the fieldwork (i.e., December 13th and December 15, 2011) were 98.7 feet and 98.4 feet, respectively. Lake level information for Lake Norman is available from a Duke Energy website; that site can be found at <http://www.duke-energy.com/lakes/levels/about-lakelevels.asp>. Lake levels are a relative measure, not the actual depth of the lake. Duke Energy, which operates Lake Norman, considers full pond as the point at which the water begins to spill over the flood gate or spillway. For the purposes of lake levels, this level is referred to as 100.0 feet.

Based on examination of the samples, all of the coves were found to hold generally comparable sediments with respect to texture and color. As could be expected due to the nature of the loamy soils in the broader watershed, the predominant sediment was silt. Included with the silt in varying amounts were sands, organics (mostly leafy debris), mica and clay. A distinct clay layer was not found in any of the samples, and therefore clay is generally not included in the characterizations of the sediments, though there were likely clay grains interspersed among the silts. In one case there was a sediment layer in which the silt seemed richly clayey, and it was so described. As also to be expected, the sediments were generally of a low chroma, i.e., dark tan to dull greyish in color. This is expected because the chemistry of the water-saturated, low oxygen conditions of the lake bottom will typically result in a color transformation of the deposited (commonly orangeish) soil sediments from the watershed landscape. Beyond the general common presence of silt with a low chroma, further details on the sediment characterizations are provided as follows.

The core samples from Coves 1-4 were found to be generally comparable in multiple respects. At the landward end sample locations (i.e., 1.1, 2.1, 3.1 and 4.1), each of these sediment samples had a distinct layer (or distinct layers) of sand, in addition to silt and/or organics layers. For coves 1, 3 and 4, a sand layer was at or very near the top of the sample, which represents the immediate lake bottom surface below the water column. For Cove 2 the first sand layer was below a multi-inch layer of silt. In addition to sand layers at the landward end of each of these coves, sand layers were also found at other sample locations in each of these coves, though the predominant sediment grain type in the sample core layers was silt. Additional length (depth) of sediment sample was acquired by the PVC method for coves 1, 3 and 4; characterizations of these additional lengths are provided in Tables 1, 3 and 4 of Appendix II. The PVC method did not provide additional length (depth) of sediment sample for coves 2 and 5; thus, no PVC characterization is provided for those related tables.

Sample 5.1 did not have a distinct sand layer, nor did any of the samples from Cove 5. The reason seems to be the fact that Cove 5 is more effectively cut off from the undeveloped, broader watershed than the other coves. Between Cove 5 and the undeveloped landscape to the north there lie two perpendicular roads and three rows of developed lots. The other coves are separated from the undeveloped landscape to the north by only a single road and a single row of developed lots (or, in the case of Cove 4, effectively no developed lots). Coves 1-4, by virtue of the topography and development conditions (including culverts), can, during stormflow conditions, receive sand discharges from stream channels or low creases in the landscape. Cove 5 does not have an input channel that would be delivering sand bedload during storm events. And it is the storm events that would be sending sand, as bedload, into the other coves. Because of the size and weight of the sand grain, sand is not usually held in suspension in a water column. Silt and clay grains are readily lifted and carried in suspension in a water column, even in

a very shallow sheetflow across a broader landscape. Sand, however, is not lifted and held in suspension, unless the water movement is fairly energetic and turbulent. Sand movement in water occurs typically as bedload transport along a streambed (or channel bed), and is driven by stream type flows (especially stormflows) rather than broad sheetflows.

For all of the coves, including Cove 5, it was found that the sample cores typically demonstrated multiple distinctive layers. Factors of color, grain combinations, organics and mica, or a combination of these, distinguished one layer from the next. In some cases, especially nearer to the landward end of coves 1, 3 and 4, multi-inch layers were dominated by decomposed leafy debris with some silty sand. Commonly there were layerings such as: sandy silt; silt; silty sand; or, silt with some sand. As for these descriptions, the meanings are as follows. “Sandy silt” describes a layer that is predominantly silt, but it is silt with a fairly strong presence of sand. “Silt” is simply silt, though the colors may vary. “Silty sand” is a layer that is predominantly sand, but has a strong presence of silt. “Silt with some sand” is a layer that is predominantly silt and has a weak presence of sand. The layers were usually only one to a few inches thick; in some cases they were several inches thick. Often there was mica present in the layers. The term “micaish” was used to describe a strong presence of mica; “some mica” indicates a weak presence.

The predominant colors, as identified by the Munsell Soil Color Chart, were of low value and low chroma. According to the Munsell Chart, colors are represented by chart pages of hue color relative to red, yellow, blue, green and purple. Within a chart page, hue color (e.g., 5YR or 2.5Y) is subdivided by value and chroma. A higher value number indicates a lighter color; a higher chroma number indicates a richer color (e.g., more orange than brown or tan). Though there were some instances of brighter colors present in the layers, e.g. 5YR 5/6 (a slightly orangeish tan), commonly the sediment colors were in the range of 5Y 4/1 (a dull, greyish tan). A lower chroma is commonly indicative of a soil being in a water-saturated, low oxygen condition, with sufficient organics present to enable chemical reactions that lead to a reduction of the chroma number compared to a less saturated, more highly oxygenated environment. The typical, natural stream or channel discharge from the surrounding landscape will likely carry sufficient organics (especially during seasonal leaf fall) to enable chroma reduction. A cleared landscape, where vegetation has been removed and the soil is laid bare, may well have insufficient organics present to enable chroma reduction, were the soil to erode and be deposited in an impoundment. Consequently, sediment from such circumstances could (and often does) retain a higher chroma for years, even though water-saturated and in low oxygen conditions (Vepraskas, 2012 pers. comm.).

Based on the overall impression of the samples, the general sediment layering in the upper portion of the study area lake bottom seems to be the product of numerous distinct events, possibly separated by multiple years. None of the layers was especially large compared to the others, which suggests that no contributory cause was especially greater than another. There were no indications of significant deposition from an extraordinary or particularly unusual event, e.g. a major storm flood or other large scale watershed disturbance. In the summer of 2004 there had been a major storm event that affected the entire Catawba River chain of lakes, including Lake Norman. However, from the samples observed, it does not seem that that storm event produced a common, uniform thick sediment layer across all the study coves that could be distinguished from surrounding layers. The most notable depositional layers are actually the organics layers at location

3.1. The recurrent, approximately two-inch thick, layers of leafy organics (interspersed with sand/silt deposits) suggest annual leaf fall depositions. Cove 3 has one of the more direct and extensive connections to the neighboring undeveloped and forested landscape, and has a stream feed that would convey leaf litter and bedload from the watershed. These factors could contribute to a greater annual delivery of seasonal leafy debris, and would provide a greater potential for sediment discharge from the stream channel with its adjoining landscape, as also is the case for the stream feeding Cove 4.

As for potential management considerations to be derived from the above findings, S&ME does not believe there is an immediate need for any specific mitigative or corrective actions, particularly with respect to sedimentation affecting water depth. As mentioned earlier, the depth of water in the coves (under expected normal lake operating conditions) seems adequate for normal local vessel operations. During the period of time from November 2006 to September 2009, another consultant conducted some monitoring of depth measurements near the landward end of coves 1-4; the data from that effort is included in Appendix IV. If S&ME understands the consultant's notations correctly, then it is seen that the depth measurements were adjusted to reflect what the depth would be at full pond (i.e., 100.0 feet). Accordingly, for comparison with the previous consultant's depth measurements, S&ME's depth measurements should be adjusted to reflect full pond depth. For example, S&ME's depth measurement at location 4.1 was 3.8 feet, taken at lake level 98.7 on December 13, 2011. By correcting to full pond of 100.0 (i.e., by adding 1.3 feet), S&ME's depth measurement at location 4.1 would be 5.1 feet. In comparison, the other consultant's depth measurement at this approximate location, taken in November 2006, was recorded as 5.0 feet. By this means of data comparison it is seen that, at the time of S&ME's fieldwork, there was effectively no notable change in depth at this location relative to the depth measured approximately five years previously. As S&ME does not know the methodology of the previous consultant, the dates when the consultant took the measurements, or the lake levels on those dates, a more detailed data comparison is not feasible. However, at face value, the indication is that there have been no enduring, significant, adverse changes in water levels at Cove 4, or any of the coves, since 2006.

Based on this interpretation of the sample data, S&ME does not believe there is a need for an intensive sedimentation monitoring program in the subject coves. To the extent that Lincoln County might want to maintain an updated record of potentially meaningful, comparable sediment data, S&ME suggests approximately annual sampling and depth measurements for coves 3 and 4. The reasons for this recommendation are: 1) these coves had some of the shallowest depths, 2) they are fed by stream channel discharge and receive runoff from larger subbasins, and 3) thus are more prone to possibly being affected by upstream channel and watershed integrity changes. As any significant impacts would most likely be noted closer to the mouths of the streams, where the heavier sand particles will settle relatively soon after entry into the cove, S&ME would particularly suggest monitoring at locations 3.1 and 3.2 for Cove 3, and 4.1 and 4.2 for Cove 4. Monitoring further out in these coves, i.e., more towards the main body of the lake, seems of lesser value based on this study, though it would be easily implemented in conjunction with the more landward locations. Monitoring in coves 1, 2 and 5 seems unnecessary based on the findings of this study. Sampling/monitoring, were it to be done in coves 3 and 4, should include comparable sediment core collection and depth measurement as was done for this study. Such an effort would require a relatively short amount of fieldwork and sample characterization, plus a brief update report. S&ME is not saying that such continued monitoring is necessary, nor even strongly recommending the

effort. S&ME is simply suggesting such an approach if, for its own files, Lincoln County desired to maintain some updated records on these locations for some future period of time.

As stated previously, details on the depth measurements and core sample characterizations, plus representative figures, photos and past reference data, are provided in the attached appendices. Please note that the Wildco corer samples presented in Photo Pages 2-6 are approximately proportional to each other in length within each page. For example, the short length of sample 1.4 matches the comparable lengths of the tops of samples 1.1-1.3.

4.0 SUMMARY AND CONCLUSION

S&ME conducted lake bottom sediment core sampling in five coves of Lake Norman near the Burton Creek area. The purpose for assessing sediment core samples was to provide Lincoln County with an understanding of the nature of the sediment layer relatively near to the surface of the lake bottom. This information was sought to assist Lincoln County in determining what, if any, related management considerations should be implemented.

S&ME found that the project study coves appear to have been subject over the years to a succession of varying sedimentation impacts, though none of the impacts seem to have been unusually distinct or significant compared to the others. A comparison of water depth measurements derived from S&ME's study with depth measurements taken by another consultant during the years 2006-09 showed that there were no noteworthy water depth changes from 2006 to 2011. Among the coves, coves 3 and 4 were found to be shallower than coves 1, 2 and 5. This finding is considered by S&ME to be an expected consequence of the larger stream drainage basins of coves 3 and 4 compared to the other coves. Stream delivery from larger drainage basins means naturally more potential for sediment loading and leafy/woody organics from forested riparian buffer areas.

S&ME does not believe there is a need for prescribed sedimentation mitigation efforts or an intensive sedimentation monitoring program in any of the project study coves. However, due to the afore-mentioned factors, S&ME has suggested that Lincoln County may want to implement some version of annual monitoring for coves 3 and 4.

The Board discussed the study and findings with Mr. Wolfe.

Mr. Wood said this will come into play when a developer buys this property. He said the Board will have to decide at that time about bonding and monitoring since the report says that monitoring is not necessary.

Presentation on Air Quality Non Attainment Designations - Josh Grant, Planner, gave a presentation on air quality non attainment.

Fire Code Appendices - Martha Lide presented the following:

In 2000 the Lincoln County Board of Commissioners adopted the Lincoln County Fire Prevention and Protection Ordinance which included the appendices to the NC Fire Codes. In 2007, the Board of Commissioners reviewed the code and appendices, at that time there was some concern

with Appendix D. The concern was that one part of Appendix D requires having two ways in and out of a sub-division once it reaches 100 structures (single family) or 200 multi-family dwelling units, this was the section that some contractors were having a hard time meeting.

The North Carolina Fire Code states in 101.2.1 that the appendices and provisions in the appendices shall not be enforceable unless specifically adopted by the local government having jurisdiction. Because the appendices are not adopted the Fire Marshal does not have authority to fully enforce the provisions included in the appendices when we do plan reviews and fire inspections.

Since the Lincoln County UDO now addresses the issues of two ways in and out of a sub-division, we would like to ask the Board of Commissioners to adopt the below appendices from the North Carolina Fire Code so that we can use all the tools available to us to do plan reviews and fire inspections to the best of our ability.

The following are a list of the appendices:

Appendix B – Fire-Flow Requirements for Buildings

Appendix C –Fire Hydrant Locations and Distribution

Appendix D – Fire Apparatus Access Roads

Appendix F – Hazard Ranking

Appendix H – Hazardous Materials Management Plan (HMMP) and Hazardous Materials (HMIS)

On Feb. 9th, 2012, a meeting was held with the following attendees to review and address any concerns related to adopting the Appendices.

Building Inspections, Zoning and Planning: Kelly Atkins, Steve Leonhardt, Wayne Godfrey, John Hutchins, Jeff Hinkle, Randy Hawkins, and Andrew Bryant.

Fire Marshal's Office: Mike Futrell, Rodney Emmett and Bill Summers.

Lincoln County Fire and Rescue Association: Jay Flynn

City of Lincolnton: Patrick King from the Fire

NC DOT : Michael Poe

County Manager's Office : Martha Lide

After discussing each one of the appendixes, they were approved by this group with the corrections/additions to Appendix D. The sections to Appendix D that were changed or corrected

are D103.1, D103.4, Table D103.4, D104.3, D106.1, D106.2 and D107.1. A copy of those changes are marked in bold black and underlined in Appendix D.

The Emergency Services Committee has also reviewed and approved these Appendices to be forward to the County Commission.

RESOLUTION #2012-22:

**RESOLUTION AMENDING THE FIRE PREVENTION CODE, FEES, AND PENALTIES
SCHEDULE OF THE COUNTY OF LINCOLN, NORTH CAROLINA**

WHEREAS, the County of Lincoln is authorized to regulate and govern the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises within the County or its Area of Extraterritorial Jurisdiction; and,

WHEREAS, the North Carolina State Building Code Council has abolished use of the 2009 edition of the International Fire as enacted and published by the North Carolina Building Code Council and has chosen instead to enforce the 2012 edition of the International Fire Code, with North Carolina Amendments as enacted and published by the International Code Council; and,

WHEREAS, it has been proposed that the Fire Prevention Code, Fees, and Penalties Schedule be revised and amended to repeal all reference and use of the 2009 edition of the International Fire Code, with North Carolina Amendments; and,

WHEREAS, County Commissioners now desires to act on this amendment and move to modify the Fire Prevention Code, Fees, Penalties Schedule, and adopt the Appendixes of the County of Lincoln to implement this revision;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that

1. The Fire Prevention Code, Fees, Penalties Schedule, and Appendixes is hereby amended by repealing the reference and use of 2009 edition of the International Fire Code and replacing it with the 2012 edition of the International Fire Code, with North Carolina Amendments.

2. The County Clerk of the County of Lincoln is hereby authorized and directed to cause the official records of the County to be revised and amended to reflect the changes set forth in Section 1 of this Resolution and to cause same to be properly codified. The County Manager of the County of Lincoln is likewise authorized and directed to cause the provisions of this Resolution to be implemented and enforced.

3. The following appendixes are adopted as part of the 2012 edition of the International Fire Code, with North Carolina Amendments: Appendix B - Fire-Flow Requirements, Appendix C - Fire Hydrant Locations and Distribution, Appendix D - Fire Access Roads, Appendix F - Hazard Ranking, and Appendix H - Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions. The provisions contained in each

appendix are not mandatory or enforceable unless specifically referenced in the adopting ordinance.

That this amendment shall become effective on _____.

LINCOLN COUNTY

By: _____
Alex Patton, Chairman
Board of Commissioners

ATTEST

Amy Atkins
County Clerk

UPON MOTION by Commissioner Arena, the Board voted unanimously to postpone until the July meeting.

Special Events and Mass Gatherings Ordinance - Martha Lide presented the following:

It is recommended that the Board approved the attached revised Ordinance regarding Special Events and Mass Gatherings for first reading. Under NCGS 153A-45, the County Commission cannot adopt an Ordinance at its first reading unless there is unanimous approval of the Board. This was not the case when the Ordinance was brought to the Board on June 4, 2012.

We have made the requested changes and are presenting it again for first reading. If the Board approves it unanimously it can be enacted, if the Board does not approve it unanimously it can be brought back for a second reading on July 16 when it can be approved by a majority of the Board.

There were also questions raised about Public Hearing requirements. Under 153A-45, notice and a public hearing are not mandated for the adoption of ordinances, ***unless*** adopting an ordinance authorized by Article 18 of Chapter 153A, which governs county planning and regulation of development. In those cases, the Board must hold a public hearing, and notice of the hearing must be published once a week for two successive calendar weeks. To be more specific, Article 18 governs zoning, subdivision regulation, building inspection (including issuance of building permits) and community development.

Since the previous draft of the Ordinance, the following modifications have been made:

- Language has been added to exclude events located within the County that are not otherwise under the jurisdiction of another governing authority. This will exclude events in the City of Lincolnton.
- The exemption for certain events (Denver-East Lincoln Christmas Parade, Cat Square Parade, Denver Days, 4th of July Fireworks Celebration in Denver) has been removed.

ORDINANCE REGULATING SPECIAL EVENTS AND MASS GATHERINGS IN LINCOLN COUNTY, NORTH CAROLINA

I. PURPOSE; SCOPE and INTENT.

The purpose of this Ordinance is to establish a structured process for permitting the staging of special planned public events and/or mass gatherings to ensure proper planning and adequate allocation of County resources for events and to protect the health and safety of the public attending such events.

This Ordinance will not apply to events or mass gatherings sponsored by local, State or federal government agencies, or Schools located in Lincoln County, as planning for events and allocation of necessary resources is already coordinated. This ordinance shall not apply to regular church or worship activities or events. This ordinance shall also not apply to businesses holding events in venues designated to hold large numbers of people, where there is already a safety and emergency plan approved by the County.

When it is determined that an event does not meet the threshold of requiring a permit, but notification of emergency first responders is recommended, the Park and Recreation Department will forward the information to the appropriate agencies.

II. DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply:

“COVERED EVENT” shall mean a Special Event or Mass Gathering that is not otherwise under the jurisdiction of another governing authority.

“SPECIAL EVENT” A planned event, open to the general public, which involves the gathering of 300 or more persons for a common purpose or goal, on public or private property, in which any of the following may apply:

- a. The use, sale or display of fireworks;
- b. The sale, purchase, provision or consumption of alcoholic beverages;
- c. The provision of live entertainment;
- d. The provision of overnight activities (ex: camping);
- e. Motorized or non-motorized vehicular racing;

- f. Activities located wholly or partially on public rights of way;
- g. A sport that involves physical contact between participants as part of normal play

“MASS GATHERING” shall include all events where at least 1,000 individuals are expected to be or are in attendance or participating in a venue or area for a specific purpose.

“SANCTIONING AUTHORITY” shall mean the official governing body that sanctions specific events of the type being requested by an applicant, such as, but not limited to, racing authorities, public sports bodies and event associations.

Notwithstanding the foregoing, those activities contained in Section VII herein are specifically excluded from the definitions of an Event, Special Event or Mass Gathering.

III. PERMIT REQUIRED.

- (A) No person shall have, hold, sponsor, or cause to be had, held, or sponsored, or allow to be had, held or sponsored on any real property they own in Lincoln County any Covered Event without having first applied for and received a permit from the County to hold the Covered Event, except as provided in Section VII.
- (B) All applications for Covered Event Permits must be made through the Lincoln County Parks and Recreation Department. An application must be submitted for each event proposed, and completed in its entirety. No application shall be considered submitted until all information required by the application form has been provided.
- (C) Applications for Covered Event Permits shall be submitted at least thirty (30) business days prior to the date of the Covered Event. The County Manager or his designee shall have the authority to reduce this time period for good cause shown.
- (D) The Lincoln County Parks and Recreation Department will forward Covered Event applications for review by the Lincoln County Special Event/Mass Gathering Application Review Committee. The Committee will include representatives from the following County Departments, and Fire Departments:
 - 1. Sheriff’s Office
 - 2. Emergency Medical Services

3. Fire Marshal/Emergency Management
4. Fire Department Representative from District in which Event is planned
5. Parks and Recreation
6. Health Department/Environmental Health
7. Public Works
8. 911 Communications Center
9. Planning and Inspections

If an event permit is requested for an event in the City limits of Lincolnton, the Committee will forward the application to the City to be considered under their application process.

In order to receive a permit, the application must receive approval from each entity represented on the Committee.

- (E) Lincoln County Special Event/Mass Gathering Application Review Committee may set conditions for permit approval. The Applicant may for example, be required to pay for fire/ rescue/medical stand by, and security /law enforcement in order for permit approval. The applicant may be required to pay additional fees if County facilities are being used.
- (F) Must meet all North Carolina Building Codes, National Electric Code and ADA Requirements

IV. STANDARDS FOR ALL COVERED EVENTS.

A Covered Event shall be approved upon the timely completion of the application required herein, unless the reviewing departments find one or more of the following:

- (A) The Covered Event time and location coincide with another Covered Event for which a Covered Event permit has been issued, and it is determined by the County or any department that there is a demonstrable safety or logistical concern with allowing two Covered Events to proceed simultaneously at the same location. By way of illustration, but not limitation, safety or logistical concerns could include, but not be limited to, events that would unduly burden the resources of law enforcement or emergency management personnel, or would, by the simultaneous location thereof, create the potential for traffic hazards;

- (B) The Covered Event will substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic at or contiguous to its location in such a manner that cannot be adequately controlled by the County's public safety departments;
- (C) The event will constitute a substantial hazard to the public safety or materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property;
- (D) The concentration of persons, animals, and vehicles at assembly points for or at the location of the special event will substantially interfere with the County's ability to provide adequate fire, police and emergency services to the public; or
- (E) The Lincoln County Covered Event Application Review Committee determines that the event plan does not adequately account for and protect the public health and safety needs of the citizens of Lincoln County would be compromised.

It shall be impermissible for the Review Committee or its members to inquire into the nature or content of speech to be held or to deny an application because of the content or purpose of the Covered Event.

All Covered Events **must comply** with, and provide proof of compliance with, the following:

- (A) All Federal, State, local and event Sanctioning Authority mandated medical coverage requirements.
- (B) Lincoln County EMS Medical Standards for Mass Gatherings, if applicable.
- (C) Lincoln County EMS shall be the primary service provider for Lincoln County; if additional emergency medical services are provided by the applicant, they will only be permitted to function under the authority of Lincoln County EMS.
- (D) All State, Federal and local Fire safety and prevention standards, codes and permitting requirements must be met. The Fire Department in the District where the event is to be held shall be primary and all others must function under the authority of that respective department.
- (E) For events where alcohol is provided, served, or sold, event organizer must secure a valid ABC permit. Copies of this permit must be forwarded to the Parks and Recreation Department prior to the event.
- (F) Animals are not allowed at Covered Events unless as a specified part of event and provided in the application therefore. Animals brought by spectators or participants, except as service animals, shall not be allowed.

- (G) Event organizers shall remove all trash and debris and shall clean up immediately after a Covered Event.
- (H) The County, in its discretion, may require the applicant to provide liability and/or special events insurance coverage for the Covered Event.
- (I) Mass Gatherings of 1,000 people or more must have a Crowd Control Manager for 250 people (per NC Fire Code). Event organizer must provide a trained Crowd Control Manager.
- (J) Submit a completed application in the format required by the County, which shall contain information such as the following, which will be critical in evaluating the citizen impact and public safety related to the event:
 - a. General information related to the event such as:
 - 1.If amplified sound will be used;
 - 2.If electrical connections are requirements;
 - 3.If tents, trailers, inflatable/air supported devices, fencing, scaffolding, etc. be involved in this event;
 - 4.If alcohol will be provided, served or sold;
 - 5.If and how many motorized vehicles (cars, boats, tractors, etc.)are involved in the event;
 - 6.If and how many vendors will be involved in the event;
 - 7.If vendor will be serving or cooking food;
 - 8.If fireworks or other potentially hazardous materials will be used;
 - 9.If there will be Admission Charges;
 10. If animals will be involved with the event;
 11. First aid plans;
 12. The number of toilets that will be accessible;
 13. Traffic flow plans;
 14. Parking plans;
 15. Signage plan;
 16. Crowd control plan;
 17. Traffic control plan;
 18. Weather contingency plans;
 19. The amount and type of insurance that will be secured;
 - b. Information on County, and Fire Support services that may be required from:
 - 1.Security /Law Enforcement
 - 2.Fire/Rescue
 - 3.Medical Standby
 - 4.Waste Clean up
 - 5.Other (Park and Recreation, Health, Public Works)

V. PERMIT AND OTHER REQUIRED FEES

- (A) The Schedule of Fees for permitting and other fees for Covered Events shall be approved by Resolution of the Board of County Commissioners.

(B) The County Commission has the authority to waive permit fees and other required fees. The Commission will consider waiving fees if:

1. The event serves to build a sense of community at large.
2. The organization sponsoring the event is a not for profit organization.
3. If any funds generated by the event are used to support the event for the following year or are used to support a community project
4. Other factors that may document the contribution the event makes to the community that would justify waiving fees.

(C) If other fees for services are required, they must be paid up front, prior to the event. If the event is canceled and the County is provided 24 hour notice, the fees for stand by service will be refunded.

(D) There may be other Fire Inspection, Health and facility usage permits/ fees that may be charged.

(E) All permits pertaining to any Special Events and/or Mass Gatherings must be obtained prior to the event and copies must be submitted to Parks and Recreation Department (Ex: NC DOT, ABC Permit).

VI. REVOCATION OF PERMIT.

The Park and Recreation Director, acting on behalf of the Lincoln County Special Event/Mass Gathering Application Review Committee has the authority to revoke a special event/mass gathering permit if the holder of such permit fails to comply with the provisions required in this Ordinance or conditions stipulated in the permit.

VII. EXEMPTIONS.

(A) This Ordinance shall not apply to:

1. Any local, State or federal governmental agency acting within the scope of its governmental functions;
2. Any School operating in Lincoln County;
3. Church or worship activities within a facility;

4. Businesses holding events in venues designated to hold large numbers of people, where there is already a safety and emergency plan approved by the County.

(B) When it is determined that an event does not meet the threshold of requiring a permit, but notification of emergency first responders is recommended, the Park and Recreation Department will forward the information to the appropriate agencies.

VIII. PENALTY AND REMEDIES.

(A) It shall be unlawful for any person to:

- (1) Carry on a Covered Event without a required permit or registration receipt;
- (2) Fail to terminate a Covered Event upon revocation of a permit;
- (3) Conduct a Covered Event in violation of the terms and conditions of a permit issued for such event;

(B) Any violation of the provisions of this Ordinance shall subject the offender to a civil penalty of \$100 for the first offense and \$500 for a second and any subsequent offenses. Each day of violation shall constitute a separate offense. If a person fails to pay the civil penalties set forth herein within twenty (20) days after being cited for a violation, the County may seek to recover the penalty by filing a civil action in the nature of debt.

(C) Each day the violation continues shall constitute a separate offense.

1. The County, by and through its duly authorized authorities, including, but not limited to, the Lincoln County Sheriff's Office, may seek to enforce the provisions of this Ordinance through any appropriate equitable remedy issued from a court of competent jurisdiction.
2. A Covered Event for which a permit has not been approved, an Event exempt from the Ordinance that otherwise would require a permit except for the exemption, or for which the stipulations of the permit which was approved are not met, or which is otherwise in violation of this Ordinance, may be shut down by Law Enforcement, but only if either the County Manager or the Lincoln County Sheriff or his designee determines that all of the conditions are present:

- 1) The Covered Event constitutes an immediate and direct physical danger to citizens or property; and
- 2) The above danger is of such an imminent nature that the remedy provided in subparagraph VIII(D) will not prevent the danger prior to its occurrence.

IX. APPEALS

Any applicant shall have the right to appeal the denial of a special event/mass gathering permit, the conditions of a special event permit, or the revocation of a special event permit to the County Manager and then a further appeal may be made to the Board of County Commissioners. The appealing party shall make the appeal to the County Manager within five (5) business days after receipt of the decision by Lincoln County Special Event/Mass Gathering Application Review Committee. If the applicant wishes to appeal the County Manager's decision, the appeal must be included on the next Board of County Commissioners' meeting agenda taking into account required agenda deadlines.

UPON MOTION by Commissioner Arena, the Board voted 4-1 to approve the Ordinance Regulating Special Events and Mass Gatherings in Lincoln County, NC as amended with the exclusion of 5(b)(1).

Finance Officer's Report: Deanna Rios, Finance Director, gave the Finance Officer's Report.

County Manager's Report: George Wood, County Manager, gave the County Manager's Report.

Martha Lide, Assistant County Manager, presented a cost savings report from Purchasing Policy and procedures.

County Commissioners' Report:

County Attorney's Report: Wesley Deaton, County Attorney, gave an update on his recent activities.

Vacancies/Appointments: Commissioner Robinson presented the following vacancies and appointments:

Vacancies:

- Nursing and Adult Home Community Advisory Committee
- Recreation Commission
 - o Lincolnton Township
- Lincoln Natural Resources

- Industrial Revenues Bond Board
- Library Board – North Brook Township
- Region F Aging Advisory Board – 2 vacancies

Appointments:

Economic Development Association (3 year term ending 6/30/15)

- Jim Watson

Environmental Review Board (3 year terms ending 7/31/12)

- Reappoint Lee Garrison
- Reappoint Steve Gurley
- Reappoint Michael Jones

Centralina Workforce Development Board (2 year term ending 6/30/14)

- Reappoint Panico Peres

Region F Aging Advisory Committee (1 year term ending 6/30/13)

- Reappoint Elizabeth Mize

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the appointments.

Calendar: Chairman Patton presented the June calendar.

Closed Session: **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to enter Closed Session pursuant to NCGS § 143-318.11

Chairman Patton announced that no action was taken in Closed Session.

Recess: **UPON MOTION** by Commissioner Robinson, the Board voted unanimously to recess to June 28, 2012 at 6:30 p.m.

Amy Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners