

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JULY 16, 2012

The Lincoln County Board of County Commissioners met July 16, 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

Members Present:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Cathy Davis, Secretary
John Anderson
Tom Campbell
Keith Johnson
Dean Lutz
Dr. Crystal Mitchem
Dr. Richard Pence

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: Chairman Patton called the meeting to order.

Chairman Patton gave the Invocation and led in the Pledge of Allegiance.

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

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, July 16, 2012
6:30 PM

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

Call to Order

Invocation – Chairman Patton

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 - Tax Requests for Releases - May 16 - June 15, 2012
 - Tax Requests for Refunds - May 14 - 27, 2012; May 28 - June 10, 2012; June 11 - 24, 2012
 - Resolution #2012-23: Resolution Amending the Classification and Compensation Plan for Lincoln County, NC
 - Request for Refund of Excise Tax from Jonas Law Firm
 - Approval of Minutes
 - May 21, 2012
 - June 18, 2012
3. Public Comments
(15 minutes allowed per Rules of Procedure – 3 minutes per person)
4. Public Hearing - Community Development Block Grant (CDBG) Closeout - James Luster
- 4a. Public Hearing - Industrial Development Incentive Grant for Existing Industry and motion to adopt Resolution #2012-27: Resolution to Adopt Economic Incentive Grant Agreement - Kara Brown
5. Lincoln County Local Emergency Planning Committee (LCLEPC) Annual Report - Fred Jarrett
6. Motion to Adopt Resolution #2012-25: Resolution to Approve Merit Increase Policy and Procedure for Lincoln County Employees - Martha Lide
7. 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
8. Special Events and Mass Gatherings Ordinance - Martha Lide
9. Refund Request from Bill Beam (Rezoning Fee) - George Wood
10. Motion to appoint Voting Delegate for NCACC Annual Meeting - George Wood
11. Motion to Adopt Resolution #2012-26: A Resolution Amending the County's Industrial Incentives Grant Policy - George Wood
12. Finance Officer's Report - Deanna Rios
13. County Manager's Report
 - Property Tax Collection Report
14. County Commissioners' Report
15. County Attorney's Report
16. Vacancies/Appointments
17. Calendar
18. Other Business

- Register of Deeds Report

19. 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.

Adjourn

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

- Tax Requests for Releases - May 16 - June 15, 2012
- Tax Requests for Refunds - May 14 - 27, 2012; May 28 - June 10, 2012; June 11 - 24, 2012
- Resolution #2012-23: Resolution Amending the Classification and Compensation Plan for Lincoln County, NC
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G.S. #105-381 (B) ALL RELEASES MORE THAN \$100
AND #105-325 INCLUDING (A) (6)

PERIOD COVERED
(May 16, 2012 - June 15, 2012)

NAME	YEAR	DIST	A/C NO	AMOUNT	REASON
Baker, Willie Mae Pharr	2011	PCFD	35821	\$228.97	Did not own personal property as of 1/1/2011.
Lee, Brandon	2011	ELFD/ELSD	0221594	\$217.28	Personal property in Mecklenburg County as of 1/1/2011.
Nicholson, J C Sr. Life Estate	2011	N-321	0218559	\$274.63	Assessment adjustment of real property.
			TOTAL	\$720.88	

G.S. #105-381 (A) ALL RELEASES MORE THAN \$100
AND #105-325 INCLUDING (A) (6)

PERIOD COVERED
(MAY 16, 2012 - JUN 15, 2012)

NAME	YEAR	DIST	A/C NO	AMOUNT	REASON
Bonilla, Gilbert Solorzano	2011	City	0114750	\$105.08	Pro-rated bill.
Botkins, Lou Ree Abernethy	2012	City	0239776	\$285.57	Vehicle taxable in Catawba County.
Buddy Stasney's Buick Pontiac	2012	City	0210477	\$116.67	Pro-rated bill.
Bumgardner, Fred Hughes Jr	2011	ELFD/ELSD	0077249	\$168.57	Pro-rated bill.
Burkett, Eva Elizabeth	2011	ELFD/ELSD	0232738	\$158.76	Pro-rated bill.
Lowes of Lincolnton #142	2011	City	25534	\$1,014.52	Vehicle taxable in Johnston County.
Majhi, Partha Pratim	2011	City	0239021	\$111.87	Vehicle taxable in Gaston County.
Moore, Timothy James	2011	ELFD/ELSD	0235824	\$106.46	Military exemption.
Novak, James Charles	2011	ELFD/ELSD	0231886	\$109.08	Pro-rated bill.
Patrick, Gary Lee	2011	DFD	0107098	\$114.73	Pro-rated bill.
Queen, Kathryn Baumgartner	2011	ELFD/ELSD	0235254	\$174.49	Vehicle sold prior to tag/tax year.
Roman, Hector Felix Guerrero	2011	City	0236662	\$119.85	Vehicle taxable in Catawba County.

NAME	YEAR	DIST	A/C NO	AMOUNT	REASON
Shelton, Edwin Beasley Jr	2011	HCFD	0146121	\$101.44	Pro-rated bill.
Spink, Stephanie Marie	2011	Crouse	0216097	\$117.18	Pro-rated bill.
Volosin, Melodee L	2011	ELFD/ELSD	0202223	\$553.23	Pro-rated bill.
Wayne, Trigg Kyle	2011	City	0234094	\$101.70	Military exemption.
Wells, Tommy Oliver	2012	City	0239971	\$193.73	Vehicle taxable in Gaston County.
Willis, Bessie	2011	NBFD	01748	\$115.94	Vehicle sold prior to tag/tax year.
Wrigglesworth, Richard Paul	2012	City	0236043	\$277.92	Vehicle taxable in Catawba County.
Younts, Julie Anne	2011	City	0239082	\$275.25	Vehicle taxable in Catawba County.
				\$4,322.04	

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (MAY 14, 2012 -MAY 27, 2012)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT	REASON
BENARD, PAUL B.	07-11	SFFD	0131511	106.96	BUILDINGS CHARGED TO WRONG PARCEL
			TOTAL	\$ 106.96	

PERIOD COVERED (JUNE 11, 2012-JUNE 24, 2012)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT	REASON
CALLAWAY, DWIGHT B. JR.	2011	DFD/ELSD	20157	101.80	PRO-RATED BILL
MCLENDON, TIMMY	2011	HCFD	0226565	110.19	PRO-RATED BILL
TOTAL				\$211.99	

PERIOD COVERED (MAY 28, 2012 – JUNE 10, 2012)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT	REASON
CRAWLEY ENTERPRISES, LLC	2007-11	ELFD/ELSD	0152513	1,311.26	VALUE CHANGE FROM PROPERTY BEING USED AS COMMON AREA.
TOTAL				\$ 1,311.26	

**RESOLUTION #2012-23:
RESOLUTION AMENDING THE CLASSIFICATION AND COMPENSATION PLAN
FOR LINCOLN COUNTY, NORTH CAROLINA**

WHEREAS, the Board of County Commissioners previously has adopted a Classification and Compensation Plan for Lincoln County, North Carolina, which was prepared by Condrey and Associates, Inc; and

WHEREAS, the County Manager is charged with assuring the Plan remains current and up to date; and,

WHEREAS, the Senior Services Department and the Veterans Services Office have shared an Administrative Clerk position for the past several years, and the 2012-13 budget includes the position to be located full time in the Veterans Services Office, and a new part time position to be located in the Senior Services Department; and

WHEREAS, we have developed the attached job description for a Transportation Coordinator/Administrative Clerk to perform the duties; and

WHEREAS, the County Manager and the Human Resources Director have reviewed the request and have recommended the classification changes;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the Position Classification and Compensation Plan for Lincoln County North Carolina is hereby amended as follows:

Adopt a new Transportation Coordinator/ Administrative Clerk position title with the job description as attached.

That this amendment shall become effective on July 16, 2012.

Adopted this 16th day of July 2012.

LINCOLN COUNTY

By: _____
Alex Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

Public Comments: Chairman Patton opened Public Comments.

Rudy Bauer, 8252 Blades Trail, thanked Don Chamblee for giving him a call. He spoke concerning Burton Creek and used car lots on Highway 16.

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

Public Hearing – Community Development Block Grant: James Luster with Centralina Council of Government, said the purpose of the public hearing is to close the Community Development Block Grant. He said there were five properties worked on and they are moving forward towards completion. He said he will be submitting the final documents to the state within thirty days and this is the final action needed to close the program.

Chairman Patton opened the public hearing. Being no speakers, Chairman Patton closed the public hearing.

Chairman Patton said he had the opportunity this week to be one of the first to get a Lincoln County Library card. He invited everyone to visit the Library and see the renovations and changes. He said he appreciates all the work Jennifer Sackett has put into this.

Public Hearing - Industrial Development Incentive Grant for Existing Industry and motion to adopt Resolution #2012-27: Resolution to Adopt Economic Incentive Grant Agreement - Kara Brown: Kara Brown with LEDA presented the information concerning an incentive grant for R. W. Garcia Co, Inc.

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

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt Resolution #2012-27: Resolution to Adopt Economic Incentive Grant Agreement with R. W. Garcia Co. Inc.

**RESOLUTION #2012-27:
RESOLUTION TO ADOPT ECONOMIC INCENTIVE
GRANT AGREEMENT WITH R. W. GARCIA CO. INC.**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, R. W. Garcia, Co. Inc., have developed plans for expansion of their manufacturing facility in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, R. W. Garcia.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon adoption.

This 16th day of July, 2012.

Alex Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 16th day of July, 2012, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and R.W. Garcia Co, Inc., a California corporation (hereinafter referred to as “R.W. Garcia”).

WITNESSETH:

WHEREAS, R.W. Garcia has developed plans for the construction of an expansion of an existing facility in Lincoln County, North Carolina; and

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County’s tax base and providing additional jobs for Lincoln County’s citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect RW Garcia to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before September 1st, 2012 R.W. Garcia shall begin expansion construction of an existing manufacturing facility in Lincoln County, North Carolina.
2. Within two years of the date of this agreement, R. W. Garcia shall make an investment upon such site of \$2,000,000, of which \$2,000,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.

3. Within two years of the date of this agreement, R.W. Garcia shall provide at such site at least 15 new jobs paying average weekly wages of \$520.00.

4. In consideration of the performance of the aforesaid obligations by R. W. Garcia, the County will provide cash grants to R. W. Garcia of \$7774.00 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to R. W. Garcia within 30 days after R. W. Garcia has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level 1 grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

5. In the event that the value of the investment actually made by R. W. Garcia pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.

6. R. W. Garcia specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, R. W. Garcia shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

R. W. Garcia, Inc. Co.

By: _____
President

LINCOLN COUNTY

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

Lincoln County Local Emergency Planning Committee (LCLEPC) Annual Report –

Fred Jarrett: Fred Jarrett gave an annual report from the Lincoln County Local Emergency Planning Committee.

Motion to Adopt Resolution #2012-25: Resolution to Approve Merit Increase Policy and Procedure for Lincoln County Employees – Martha Lide:

UPON MOTION by Commissioner Robinson, the Board voted 4-1 (Arena against) to approve Resolution #2012-25: Resolution to Approve Merit Increase Policy and Procedure for Lincoln County Employees.

Commissioner Arena said he will vote against this due to the fact that the timing is bad.

RESOLUTION #2012-25:

**RESOLUTION TO APPROVE MERIT INCREASE POLICY AND PROCEDURE FOR
LINCOLN COUNTY EMPLOYEES**

WHEREAS, the Board of County Commissioners would like to implement a merit increase policy for Lincoln County employees, as a mechanism to encourage excellence and reward contributions; and

WHEREAS, the Board of County Commissioners would like County management to distribute annual merit increases based on each employee's performance and contributions in the past year; and

WHEREAS, the County Manager is responsible for implementing the policy and guidelines for a merit increase; and

WHEREAS, the attached Administrative Policy was developed to outline the policy and procedures for implementing a merit increase for Lincoln County employees;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the Lincoln County Board of County Commissioners approves the attached Administrative Policy on Merit Increases which will be followed by the County Manager and employees. Notwithstanding anything else to the contrary in the policy, the merit increases for each year are subject to being specifically allocated by the Commission and shall not be provided in the event the Commission does not make that specific allocation for a year

That this resolution shall become effective immediately.

Adopted this 16th day of July, 2012.

LINCOLN COUNTY

By: _____

Alex Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

Fire Code Appendices – Martha Lide

Resolution #2012-22: Resolution Amending the Fire Prevention Code, Fees, and Penalties Schedule of the County of Lincoln, NC: Martha Lide presented the following information:

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 and

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 immediately.

LINCOLN COUNTY

By: _____
Alex Patton, Chairman
Board of Commissioners

ATTEST

Amy Atkins
County Clerk

UPON MOTION by Commissioner Arena, the Board voted unanimously to adopt Resolution #2012-22: Resolution Amending the Fire Prevention Code, Fees, and Penalties Schedule of the County of Lincoln, North Carolina.

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

It is recommended that the Board approved the attached Ordinance regarding Special Events and Mass Gatherings on second reading. The first reading of this Ordinance was presented to the County Commission on June 16, 2012.

Attached is a summary of the main components of Ordinance presented at the last Commission meeting.

Summary of Special Events and Mass Gathering Ordinance

This Ordinance is being proposed in order to establish a clear process for permitting such events to ensure proper planning and adequate allocation of resources to protect the health and safety of the public attending such events.

Some key components of the Ordinance are:

- This Ordinance would apply to Special Events where 300 or more people are expected to be present and which are open to the general public and which involve fireworks, alcoholic beverages, live entertainment, overnight activities, vehicle racing, may impact public right of ways, or involve physical contact sports. The Ordinance would also apply to Mass Gatherings where more than 1,000 people are expected.
- The Ordinance does not apply to certain types of events because there is already a process to develop and implement safety and emergency plans. Events that are not covered by this Ordinance are ones that are sponsored by local, State or federal government, schools, or church/worship organizations if the event is held within a church/worship facility. The Ordinance also does not apply to businesses that hold events in facilities designated to hold large numbers of people where there is already a County approved safety and emergency plan.
- Organizers of Special Events or Mass Gatherings are required to obtain a permit from the County at least 30 days before the event through the Park and Recreation Department. Park and Recreation will work with the Lincoln County Special Events/Mass Gathering Application Review Committee comprised of the following organizations to secure the approvals of Departments/Offices that may be impacted by the event:
 - Sheriff's Office
 - Emergency Medical Services
 - Fire Marshal/Emergency Management
 - Fire Department Representative from District in which Event is planned
 - Parks and Recreation
 - Health Department
 - Public Works
 - 911 Communications Center
 - Planning and Inspections
- The Committee may set conditions for permit approval. For example, the applicant may be required to pay for fire, rescue, or medical standby services,

security, law enforcement, or other additional fees if County facilities are being used in order for permit approval.

- The Ordinance provides that Special Events Mass Gatherings permits will not be approved if:
 - There is a safety or logistical concern because another event has been approved for the same time.
 - The event will interrupt safe and orderly movement of pedestrian or vehicular traffic.
 - The event constitutes a hazard to public safety or interferes with public peace or rights of residents to quiet and peaceful enjoyment of their property.
 - There are other health and safety issues or a concern about the County's or impacted fire department's ability to provide adequate emergency services.
- Organizers of Special Events Mass Gatherings must comply with all Federal, State, local, and event sanctioning requirements. If alcohol is involved, an ABC permit is required.
- Animals will not be allowed at Special events or Mass Gatherings unless they are a specified part of the event.
- Events with over 1,000 in attendance must provide Crowd Control Managers as required by the NC Fire Code.
- There is a \$100 fine for a first offense of noncompliance with the Ordinance and a \$500 fine for second and subsequent offenses.

The following changes have been made in the Ordinance since it was first presented for consideration by the Board on June 4th 2012:

- 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 Lincoln.
- 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.
- Additional language has been added in section V to list the following things the County Commission should consider in waiving fees:
 1. The organization sponsoring the event is a not for profit organization.
 2. 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
 3. Other factors that may document the contribution the event makes to the community that would justify waiving fees.

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:
 4. The organization sponsoring the event is a not for profit organization.
 5. 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
 6. 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 (Mitchem against) to approve the Special Events and Mass Gatherings Ordinance.

Refund Request from Bill Beam (Rezoning Fee) – George Wood: Mr. Wood presented a request from Bill Beam for a request for a refund of a rezoning fee. This refund was not recommended by staff.

UPON MOTION by Commissioner Arena, the Board voted unanimously to follow the recommendation of staff.

Motion to Appoint Voting Delegate for NCACC Annual Meeting – George Wood: **UPON MOTION** by Commissioner Arena, the Board voted unanimously to appoint Commissioner Klein.

Motion to Adopt Resolution #2012-26 – A Resolution Amending the County's Industrial Incentives Grant Policy – George Wood:

**RESOLUTION #2012-___ : A RESOLUTION AMENDING THE COUNTY'S
INDUSTRIAL INCENTIVES GRANT POLICY**

THAT WHEREAS, the Lincoln County Board of Commissioners have previously adopted on February 1, 2002 an industrial incentive grant policy, which has been subsequently amended from time to time; and

WHEREAS, the Board of Commissioners and the Lincoln Economic Development Association (LEDA) have met to discuss changes to this policy to make Lincoln County more competitive in industrial recruitment of new industries and the expansion of existing industries; and

WHEREAS, at that meeting the County Manager and Executive Director of LEDA were directed to review and make recommendations to the industrial incentive program to strengthen the program's competitiveness; and

WHEREAS, the County Manager and the Executive Director of LEDA have recommended changes to the existing policy contained in the attached policy, and the LEDA Executive Board has approved the recommendation; and

WHEREAS, the Lincoln County Board of Commissioners have reviewed the recommended policy changes and wish to adopt the changes and incorporate them into its Industrial Incentives Grant Policy;

NOW, THEREFORE, BE IT RESOLVED by the Lincoln County, North Carolina Board of Commissioners as follows:

Section 1. That the document entitled "LINCOLN COUNTY INDUSTRIAL DEVELOPMENT INCENTIVE GRANT PROGRAM FOR NEW AND EXISTING INDUSTRIES", attached hereto and incorporated by reference into this resolution, is hereby approved and adopted as the industrial incentive grant policy for Lincoln County, and supersedes any previous policies or portions of policies that conflict herewith.

Section 2. That the Lincoln Economic Development Association and the county staff are hereby authorized and instructed to use this policy in their industrial recruitment efforts from and after this date, until such policy is further amended by action of the Board of Commissioners.

Section 3. That the Executive Director of LEDA is authorized to change the factors called for in Section IV of the Lincoln County Industrial Development Incentive Grant Program for New and Existing Industries in any year that the tax rate changes, so that the factors reflect the same percentage change either up or down as the percentage change in the tax rate from the previous year.

Section 4. That this change in the factors shall not take effect until the County Manager has reviewed the mathematical calculations showing the existing tax rate and the new tax

rate, and the existing factors and the new factors, and has given written approval of them. A copy of said written approval shall be furnished to the Board of Commissioners within 30 days of said approval.

Section 5. That this change in the factors shall be effective for the full fiscal year in which the tax rate has changed, and in all subsequent fiscal years, until the tax rate is subsequently changed.

Section 6. The provisions of this resolution shall become effective immediately upon its adoption.

Adopted this 16th day of July, 2012.

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

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Mitchem , the Board voted unanimously to table Resolution #2012-26: A Resolution Amending the County's Industrial Incentives Grant Policy.

Finance Officer's Report: Scott Cook, Accountant gave the Finance Officer's Report in Deanna Rios' absence.

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

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:

Agricultural District Advisory Board – 3 year term ending 6/30/15

- Stephen Secrest, 1601 Salem Church Rd, Lincolnton (poultry farmer)
- Wayne Mitchem, 400 David’s Chapel Church Rd, Vale (farmer in North Brook)

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

Randy Hawkins and Wesley Deaton gave an update on the Transient Occupancy Tax. This tax cannot be imposed only on these rentals and must be imposed on all single family homes if this is done.

The Board decided not to move forward on this matter.

Mr. Wood asked the Board to formally release the bidder from the Mundy House and rebid the project.

UPON MOTION by Commissioner Arena, the Board voted unanimously to accept the request for the low bid to be withdrawn, throw out the other bids, and rebid the Mundy House project.

Calendar: Chairman Patton presented the calendar.

Closed Session: **UPON MOTION** by Commissioner Arena, 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.

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

Amy Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners