

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 1, 2007

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on October 1, 2007, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 PM.

Commissioners Present:

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

Planning Board Members Present:

Jerry Geymont, Chairman
John Pagel, Vice Chairman
Terry Whitener, Secretary
George Arena
Clyde Brown
Larry Craig
Darrell Harkey
Harold Howard Jr.
Louis McConnell

Others Present:

Michael Talbert, Interim County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Director of Building and Land Development
Randy Williams, Principal Planner
Randy Hawkins, Zoning Administrator
Candi Cornwell, Associate Zoning Administrator
Andrew Bryant, Associate Planner
Stacy Yates, Associate Planner
Amy Brown, Clerk to the Planning Board
Rick McSwain, Director of Soil and Water
Maggie Dollar, Director of Health
Madge Huffman, Director of Tax
Steve Gilbert, Director of Public Works
Barry McKinnon, Utility Engineer
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the October 1, 2007 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Commissioner Moore gave the Invocation, and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda adding Item 9a – Contribution to Sally's Y and Item 10A – Appointments to Hospital Trustee Council – Other Business – Drought update – Steve Gilbert and Closed Session for a personnel matter update.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

OCTOBER 1, 2007

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|----|---------|--|
| | 6:30 PM | Call to Order |
| | 6:31 PM | Invocation – Commissioner Moore |
| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:34 PM | Consent Agenda <ul style="list-style-type: none">- Approval of Minutes<ul style="list-style-type: none">- September 10, 2007- September 17, 2007- Budget Adjustment No. 29 – 36- Resolution to Adopt Economic Incentive Grant Agreement Extension with Leonard Automatics, Inc.- Resolution to Adopt Economic Incentive Grant Agreement Extension with Calico Technologies, Inc. |
| 3. | 6:36 PM | Report from the Planning Board – Jerry Geymont |
| 4. | 6:40 PM | Zoning Public Hearings – Randy Hawkins |

ZMA #556 Joe and Rene Duckworth, applicants (Parcel ID# 30026, 30022, 70078 and 57633) A request to rezone 2.2 acres from R-T (Transitional Residential) to B-N (Neighborhood Business). The property is located at the southeast corner of Pilot Knob Road and Hagers Ferry Road in Catawba Springs Township.

PCUR #156 Hoover H LLC and Dipento Properties LLC, applicants (Parcel ID# 31240) A request to rezone 1.0 acre from R-T (Transitional Residential) to CU B-N (Conditional Use Neighborhood Business) to permit an 8,280-square-foot office building. The property is located on the east side of Pilot Knob Road about 400 feet south of Hagers Ferry Road in Catawba Springs Township,

5. 7:20 PM Public Comments
6. 7:35 PM Catawba Buffer Regulations – Rick McSwain, Stacy Yates
7. 7:45 PM Advanced Agriculture District Program – Rick McSwain
8. 7:55 PM Lincoln Partnership for Health – Healthy Carolinians State Funding for P-T Contracted Coordinator – Maggie Dollar
9. 8:05 PM Submittal of Schedule of Values for the 2008 Revaluation of Real Estate – Madge Huffman
10. 8:15 PM Government Audit Committee – Commissioner Moore
11. 8:25 PM Other Business

Adjourn

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

- Approval of Minutes
 - September 10, 2007
 - September 17, 2007
- Budget Adjustment No. 29 – 36

No. 29: Budget for Block Smith gym expenses and transfers to Recreation CIP

No. 30: Budget of Historical Properties grant from Mundy House endowment

No. 31: Increasing expenditure and revenue line items for additional allocations of funds for Crisis Intervention Program (no county funds involved)

No. 32: Increasing expenditure and revenue line items for available funds to be used for emergency situations in domestic violence cases (100% Federally funded)

No. 33: Budget adjustment requested as funds were awarded through the Work First Demo Grant to be used for functional evaluations on Work First recipients

No. 34: Budget adjustment requested as additional funds were allocated to In-Home aide program from Office on Aging

No. 35: Budget \$9,600 approved 9/17/07; \$5,200 BFI grant; and \$34,000 grant from Lincolnton for construction of Farmers Market shelter

No. 36: To carry over Duke Disc. Funds from last year

- Resolution to Adopt Economic Incentive Grant Agreement Extension with Leonard Automatics, Inc.
- Resolution to Adopt Economic Incentive Grant Agreement Extension with Calico Technologies, Inc.

Report from the Planning Board – Jerry Geymont: Jerry Geymont, Chairman of the Planning Board, gave a monthly report from the Planning Board.

Zoning Public Hearings – Randy Hawkins:

Chairman Anderson announced that this was the date, Monday, October 1, 2007 and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on September 21, 2007 and September 28, 2007.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, October 1, 2007, at 6:30 p.m. to consider the following matters:

ZMA #556 Joe and Rene Duckworth, applicants (Parcel ID# 30026, 30022, 70078 and 57633) A request to rezone 2.2 acres from R-T (Transitional Residential) to B-N (Neighborhood Business). The property is located at the southeast corner of Pilot Knob Road and Hagers Ferry Road in Catawba Springs Township.

PCUR #156 Hoover H LLC and Dipento Properties LLC, applicants (Parcel ID# 31240) A request to rezone 1.0 acre from R-T (Transitional Residential) to CU B-N (Conditional Use Neighborhood Business) to permit an 8,280-square-foot office building. The property is located on the east side of Pilot Knob Road about 400 feet south of Hagers Ferry Road in Catawba Springs Township,

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the James W. Warren Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

2T: Sept. 21, Sept. 28, 2007

Chairman Anderson asked that ex parte discussions be revealed at the time cases are discussed, and none were given.

Zoning Map Amendment No. 556– Joe and Rene Duckworth, applicants: Randy Hawkins presented the following:

The applicants are requesting the rezoning of 2.2 acres from R-T (Transitional Residential) to B-N (Neighborhood Business). The request involves four contiguous parcels of land.

The property is located at the southeast corner of Pilot Knob Road and Hagers Ferry Road in the Catawba Springs Township. The adjacent properties to the east and south are zoned R-T. (An application has been submitted to rezone the adjacent property to the

south to CU B-N to permit an office building). The properties to the north and west on the opposite sides of Pilot Knob Road and Hagers Ferry Road are zoned B-N. Land uses in this area are commercial along Hwy. 16 and the west side of Pilot Knob Road and residential along Hagers Ferry Road and the east side of Pilot Knob Road. County water and sewer are available at this location. This property is located in an area classified by the Lincoln County Land Use Plan as Suburban Residential.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 556 – Joe and Renee Duckworth, applicants.

Renee Duckworth, 532 North Pilot Knob Road, Denver, stated that she is requesting for property to be rezoned neighborhood business. She stated that she and her husband have owned and paid taxes on this property for 40 years. Ms. Duckworth mentioned all the businesses in the area which make their property undesirable for residential use.

Judith Farris, 494 North Pilot Knob Road, spoke in opposition to the rezoning of the 2.2 acres. She stated that the rezoning will raise their property taxes. She stated that one business on this side of the road will open up the rest for business. She said one of her concerns is the safety of her family with a business next door. She is asked if the Board would like a business beside their homes. She expressed concerns about security lighting shining into her home, loitering after hours, and traffic. Ms. Farris urged the Board to deny the request and asked everyone in the audience opposed to this to stand in opposition.

Kathy Henley, 450 North Pilot Knob Road, stated that she opposes the request for rezoning at this time. She stated that she was victimized by a burglary. She stated that with the increase in cars, she doesn't see how a business on that side of the road, would do anything but worsen the condition.

Martin Oakes, 8057 Lucky Creek Lane, user of Pilot Knob Road, stated that his whole concern with the request is spot zoning, which is something we should avoid. He stated that a lot of money was spent on a Land Use Plan and North Pilot Knob Road should be considered in it's entirety as a special zoning area.

Charles Henley, 480 North Pilot Knob Road, stated that he opposes this rezoning. He stated that he lives right beside Judy Farris. He stated that he has concerns about more property in the area being rezoned, traffic safety

Teresa Dearnley, 8879 Hager's Ferry Road, stated that this is her home and neighborhood. She stated that she understands the Duckworth's dilemma, but the County has to know when to end it. She stated that this is a residential area and they would like to keep it like this.

Martha Lide, 8119 Windsong Road, stated that she has concerns about the traffic. She stated that she has only lived in the area for 9 months and had seen 7 accidents at this intersection. She referred to the Land Use Plan and sprawl. She stated that in the future,

there may be more property to open up in this area and can be a nice residential development.

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

Parallel Conditional Use Rezoning No. 156 – Hoover H LLC and Depento Properties LLC, applicants: Randy Hawkins presented the following:

The applicants are requesting the rezoning of 1.0 acre from R-T (Transitional Residential) to CU B-N (Conditional Use Neighborhood Business) to permit an 8,280-square-foot office building.

The property is located on the east side of Pilot Knob Road about 400 feet south of Hagers Ferry Road in Catawba Springs Township. The adjacent properties to the north, east and south are zoned R-T. (An application has been submitted to rezone the adjacent properties to the north and east to B-N.) The properties to the west on the opposite side of Pilot Knob Road are zoned B-N. Land uses in this area are commercial along Hwy. 16 and along the west side of Pilot Knob Road and residential along the east side of Pilot Knob Road and along Hagers Ferry Road. County water and sewer are available at this location. This property is located in an area classified by the Lincoln County Land Use Plan as Suburban Residential.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Permit No. 156 – Hoover H., LLC and Dipento Properties, LLC, applicants.

Joe DiPento, applicant, stated that he came before the Board on August 6 came and gave some information on this parcel. He pointed out the parcels in agreement with this request and presented letters stating this. Mr. DiPento stated that they do not want to make this a strip mall, there will be one entrance in the front and rear. He said he is in negotiations with a Christian bookstore, lawyer, coffee shop, and an accountant. He stated that he would be willing to do anything the Farris' would like for screening, including fencing, shrubs, etc. He said he would be putting a sidewalk at the property. Mr. DiPento said he would put in a slow down lane at the property. He stated that he has met overall setbacks and for the height of the building. He stated that the building will be brick on the bottom, stucco on top.

John Pagel asked the timeframe for the building.

Joe DiPento stated that they should be in the building by July of next year. He stated that he has already been approved for sewer and has a capacity flow letter for this location.

Commissioner Craig questioned a coffee shop as being retail.

Judith Farris stated that she is opposed to the request for rezoning. She said that she does not want to live next door to any type of business. She is forced to live with businesses across the street. She voiced her concerns for the safety of her grandson, who she keeps

during the day. She also voiced concerns for adding more traffic to Pilot Knob Road. She asked the Board not to approve the request and for everyone opposed in the audience to stand.

Kathy Henley stated that she opposes the request. She commended Mr. DiPento for trying to be such a good corporate citizen and for the expense, but is concerned that Mr. DiPento says it would not impede school traffic. She stated that the school bus will not currently come on Pilot Knob Road. She stated that she has to take her son to Safari Miles to get onto school bus. Ms. Henley stated that she believes the board will take into consideration that this property has been owned by families for hundreds of years.

Charles Henley stated that he would appreciate the Board not rezoning this.

Teresa Dearnley, 8879 Hager's Ferry Road, stated that the Board can look at what's happening here. She stated that rezoning this property would be like a forest fire spreading. She stated that once one is rezoned, it will keep going.

Martha Lide, 8119 Windsong Road, stated that she would like to reiterate her comments from last time. She stated that Pilot Knob Road is a natural demarcation between zoning business and residential and if you go on the other side of Pilot Knob Road it's like opening the flood gates. She asked the Board to say no now.

Jeff Henley stated that his major concern is that the bus will not come down the road. He asked when the state is going to do something about the traffic on Pilot Knob Road and the poorly designed intersection. He stated that Mr. DiPento is wanting to put up a nice building, not a metal building, but he needs to know what will be done about the traffic.

Robert Fields stated that he would like to reiterate what has already been said. He said Mr. DiPento has referenced several properties and those should not be taken into consideration at this time. He stated that Mr. DiPento mentioned the medical pavilion and there is vacant property adjacent to that pavilion that would be a great location for this building. He asked the Board to deny this rezoning.

Chairman Anderson presented 4 letters in opposition to the request for the Board of Commissioners and Planning Board. Jeff Taylor, County Attorney, advised that this evidence should be considered as hearsay.

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

Chairman Anderson called for a 5 minute recess and called the meeting back to order. The Planning Board recessed their meeting on the 2nd floor balcony.

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

Dave Johnson, 4641 Brewington Parkway, Rock Hill, SC stated that he is here on behalf of a tragic incident when the boy was killed by the dogs. He stated that this tragedy should not be compounded by another tragedy, which is the dogs being put down. He stated that this is unfair for the dogs who were in their own yard. He asked the Board to change the ordinance.

Kim Johnson stated that on the same matter, the parents let the child wander astray. She stated that any time a child goes into a dog's territory, dogs can be provoked. She stated that parents need to take initiative in controlling their children and the dogs should not be put down.

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

Catawba Buffer Regulations – Rick McSwain, Stacy Yates: Rick McSwain and Stacy Yates presented information regarding the Catawba Buffer Regulations.

It was the consensus of the Board to not take this up at this time.

Enhanced Agriculture District Program – Rick McSwain: Rick McSwain presented the Enhanced Agriculture District Program. Lincoln County currently has a Voluntary Agriculture District, which was passed by the Board of Commissioners in October 2002. The purpose of this is to preserve and protect farmland, forestland, and/or horticultural land from non-farm development and reduce potential nuisance suits by providing advance notice to surrounding landowners of the presence of voluntary agricultural districts.

The Lincoln County Agricultural District Advisory Board is proposing that the Lincoln County Commissioners adopt the "Enhanced Agricultural District Ordinance". The major difference in the two is that in the enhanced, the 10-year conservation agreement between the landowner and the county cannot be revoked.

Chairman Anderson asked for this to be placed on the next agenda for the Board's consideration.

Lincoln Partnership for Health – Healthy Carolinians State Funding for P-T Contracted Coordinator – Maggie Dollar: Maggie Dollar presented information regarding the Lincoln Partnership for Health for Healthy Carolinians State Funding for a part time contracted coordinator position, not a county position with no benefits. The allocated state funds are \$12,048.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the receipt of the \$12,048 Lincoln Partnership for Health – Healthy Carolinians State Funding and to contract for the part time contracted Coordinator as submitted.

Submittal of Schedule of Values for the 2008 Revaluation of Real Estate – Madge

Huffman: Madge Huffman presented a Submittal of Schedule of Values for the 2008 Revaluation of Real Estate. She stated that the public hearing will be on October 15 at 6:30 and they will be back on November 5 to ask the Board to consider adopting the Schedule of Values. She presented a public relations video to the Board.

Contribution to Sally's Y: Commissioner Moore asked if the Board would like to make a contribution to Sally's Y.

Commissioner Carlton stated that he feels this is as good a project as the board could support and will impact a huge number of people. He stated that he is fully supportive of contributing annual allocations.

Commissioner Klein asked why this was not submitted at budget time.

Commissioner Moore stated that the Board could do allocations over a five year period.

Chairman Anderson stated that the Rules of Procedure prohibit the Board from making decisions for amounts over \$5,000 that are not on the agenda. He asked the Manager and Attorney to draft a Resolution in support of this project.

Chairman Anderson suggested having Sally's Y come make a presentation at a future meeting and then making a decision on this matter.

Government Audit Committee – Commissioner Moore: Commissioner Moore presented information regarding the Government Audit Committee.

A MOTION by Commissioner Moore to form an audit committee.

VOTE: 1 – 4 AYES: Moore

NOES: Patton, Carlton, Anderson, Klein

Confirmation of Carolinas Medical Center – Lincoln Community Trustee Council –

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the appointments of Rev. Joseph Dixon Free and Dr. Elaine Jenkins to the Lincoln Community Trustee Council.

Other Business:

Drought Update: – Steve Gilbert gave an update on the drought situation.

Commissioner Klein stated that it is embarrassing that the City of Lincoln is not having mandatory restrictions.

Closed Session: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to enter closed session pursuant to NCGS 143-318.11 (6) to consider the

qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, and to consult with attorney concerning attorney-client privilege.

The Board returned to open session.

Chairman Anderson stated that no action was taken.

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners