

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 3, 2014

The Lincoln County Board of County Commissioners met March 3, 2014 at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman
Carl E. Robinson, Jr., Vice Chair
James A. Klein
Carrol D. Mitchem
Cecelia A. Martin

Others Present:

W. Tracy Jackson, County Manager
Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board

Planning Board Members:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Todd Burgin
John Dancoff
Dr. Crystal Mitchem
Brian Rabalais

Call to Order: Chairman Patton called the March 3, 2014 meeting of the Lincoln County Board of Commissioners to order. Commissioner Robinson gave the Invocation and led in the Pledge of Allegiance.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, March 3, 2014
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

- Tax Requests for Releases - Over \$100

- January 16 - February 15, 2014

- Tax Requests for Refunds - Over \$100

- January 13 - 26, 2014

- CDBG Monthly Status Update

- Motor Vehicle Refunds

- Budget Ordinance Amendment #6

- Capital Project Ordinance Amendment #5

- Capital Project Ordinance Amendment #6

- Minutes for Approval

- Surplus Property

- Surplus Vehicles

3. Zoning Public Hearings - Randy Hawkins

CZ #2014-2 Xiaopei Guo, applicant (Parcel ID# 02379) A request to amend a conditional zoning district (CZ B-N) to permit an 8,160-square-foot retail sales facility with upper-story offices. The 0.69-acre parcel is located on the north side of N.C. 16 Business about 300 feet east of Burnwood Trail in Catawba Springs Township.

ZMA #608 Lincoln County, applicant (Parcel ID# 31784, 59097 and 02876) A proposal to rezone 10.8 acres from R-S (Residential Suburban) to B-G (General Business). The property is located on the north side of Optimist Club Road and the east side of a railroad right-of-way in Catawba Springs Township.

WSCUP #17 C4 Development, LLC, applicant (Parcel ID# 26943) A request for a conditional use permit to exceed 36% impervious surface area in the Hoyle Creek WS-IV Protected Area as a special nonresidential intensity allocation. The applicant is proposing to develop 2.2 acres, including 1.5 acres within the watershed district with 55% impervious surface area, for a Family Dollar store. The property is located on the northeast corner of N.C. 27 and Randleman Road in Ironton Township.

4. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)

5. Special Teams Presentation - Bill Summers

6. Medical Insurance Coverage and Medical Voluntary Benefits for 2014-15 - Martha Lide

7. Rescue Squad Park Update - Tracy Jackson
8. Update on West Lincoln Splash Pad - Tracy Jackson
9. Motion to approve Agreement of Sale and Purchase
10. Other Business
 - Appointments
11. Closed Session Pursuant to Closed Session Pursuant to NCGS § 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.
12. Recommendation from Planning Board
 - PD #2014-1 - Shea Homes Limited Partnership, applicant
 - VR #2014-2 - Shea Homes Limited Partnership, applicant

Adjourn

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the agenda as presented.

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

- Tax Requests for Releases - Over \$100
 - January 16 - February 15, 2014
- Tax Requests for Refunds - Over \$100
 - January 13 - 26, 2014
- CDBG Monthly Status Update
- Motor Vehicle Refunds
- Budget Ordinance Amendment #6
- Capital Project Ordinance Amendment #5
- Capital Project Ordinance Amendment #6
- Minutes for Approval
- Surplus Property
- Surplus Vehicles

Items listed in the Consent Agenda are on file in the office of the Clerk to the Board and are hereby made a part of these minutes as though fully set forth herein.

Zoning Public Hearings: Randy Hawkins presented the following:

CZ #2014-2 Xiaopei Guo, applicant (Parcel ID# 02379) The applicant is requesting to amend a conditional zoning district to permit an 8,160-square-foot retail sales facility with upper-story offices. This property was rezoned from R-S (Residential Suburban) to CZ B-N (Conditional Zoning Neighborhood Business) in 2008 to permit a 4,900-square-foot retail/office building, but that plan has not been carried out. Because the new plan calls for an increase in floor area of greater than 10 percent, it can only be approved through a rezoning process. The property owner has authorized the rezoning application. A site plan and front elevation have been submitted as part of the application. If this request is approved, the use of the property would be subject to the approved plan and any conditions mutually approved by the county and the applicants.

This 0.69-acre parcel is located on the north side of N.C. 16 Business about 300 feet east of Burnwood Trail. It is adjoined by property zoned R-S, B-G (General Business), IG (General Industrial) and B-N. Land uses in this area include residential, business and industrial. Public water is available at this location but not public sewer. This property is part of an area designated by the Lincoln County Land Use Plan as Residential Suburban.

Permitted uses

Under current zoning: retail sales, offices.

Under proposed zoning: retail sales, offices.

Adjoining zoning and uses

East: zoned R-S, duplex.

South (opposite side of N.C. 16 Business): zoned I-G and B-N, garden center and residence.

West: zoned B-G, undeveloped lot with billboard.

North: zoned R-S, duplex and single-family home.

Traffic

The average daily traffic count on N.C. 16 Business in this area is approximately 11,000 vehicles, according to 2012 figures.

Planning Staff's Recommendation

Staff recommends approval of the proposed amendment to the conditional zoning district.

Chairman Patton opened the public hearing.

Hong Tao Han stated that speaking on behalf of the applicant, Xiaopei Guo. He said their business is a retail to do hardwares and light fixtures. He said there is no manufacture at all.

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

ZMA #608 Lincoln County, applicant (Parcel ID# 31784, 59097 and 02876

The county is proposing the rezoning of 10.8 acres from R-S (Residential Suburban) to B-G (General Business). The owners of the property have authorized the rezoning request. The county plans to acquire the rear portion of this property to relocate a convenience site that is currently located on the opposite side of Optimist Club Road near the entrance to Airlee Business Park at Ingleside.

Site Area & Description

This property is located on the north side of Optimist Club Road and the east side of a railroad right-of-way. It is adjoined by property zoned R-S, I-G (General Industrial) and CU PD-R (Conditional Use Planned Development Residential). Public water and sewer are available in this area. Land uses in this area include residential, institutional and industrial.

The Lincoln County Land Use Plan designates this area as Neighborhood Business, appropriate for retail and service establishments.

Permitted uses

Under current zoning: single-family homes, duplexes, church, county-owned facilities.
Under requested zoning: retail sales, offices, services, county-owned facilities, etc.

Adjoining zoning and uses

East: zoned R-S, assisted living center.

South (opposite side of Optimist Club Road): zoned I-G, convenience site and undeveloped lots.

West (opposite side of railroad right-of way): zoned I-G, undeveloped property owned by Catawba Lands Conservancy, mostly floodplain.

North: zoned CU PD-R, common open space portion of Villages of Denver residential development.

Planning Staff's Recommendation

Staff recommends approval of the rezoning request.

Chairman Patton opened the public hearing.

Being no speakers, Chairman Patton closed the public hearing.

WSCUP #17 C4 Development, LLC, applicant (Parcel ID# 26943)

The applicant is requesting a conditional use permit to exceed 36% impervious surface area in the Hoyle Creek WS-IV Protected Area as a special nonresidential intensity allocation under the 10/70 option. The applicant is proposing to develop 2.2 acres, including 1.5 acres within the watershed district with 55% impervious surface area, for an 8,320-square-foot Family Dollar store.

The property is located on the northeast corner of N.C. 27 and Randleman Road in Iron

Township. It is zoned B-N (Neighborhood Business) and is adjoined by property zoned R-SF (Residential Single-Family) and R-T (Transitional Residential). A gas station/convenience is located on the opposite side of N.C. 27. Land uses in this area include business, residential and institutional. The Lincoln County Land Use Plan designates the area around this intersection as Neighborhood Business, appropriate for small-scale retail and service establishments.

10/70 Option

Under the 10/70 option, 10 percent of the acreage in a watershed district may be developed with new nonresidential projects having up to 70% impervious surface area.

Approval is on a project-by-project basis, subject to the issuance of a conditional use permit by the Board of Commissioners. One of the findings of fact that must be made in approving a permit for a special nonresidential intensity allocation is that the project will substantially increase the county's tax base or otherwise significantly promote or expand economic development and/or job opportunities. The Hoyle Creek watershed district covers 6,321 acres in Lincoln County. This would be the first acreage in the district allocated under the 10/70 option, leaving 630.9 acres to be allotted.

Unlike the high-density option, which is available only in the Catawba/Lake Norman watershed district, the 10/70 option doesn't require that projects meet standards for treating stormwater runoff (a minimum of 85 percent average annual removal for total suspended solids). Those standards are typically met by means of a wet pond with a permanent pool of water.

In this case, the site plan submitted as part of the application calls for two dry ponds to detain and release water to manage runoff from storm events.

Chairman Patton opened the public hearing.

Sue Vance asked if this was a need or a want. She said she doesn't need or want it. She said no one in their neighborhood was in favor of this request. She said many accidents happen at this intersection. She asked that the request be denied.

Kim Kauffman with Freeland and Kauffman, Inc., the Engineering Firm that represents C4, said this will be between an \$800,000 and \$1,000,000 investment in the county. He said this property will be on well and septic. He said they have been verbally approved for a driveway permit from NCDOT.

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

The Planning Board moved to the 2nd floor balcony.

Chairman Patton declared a five minute recess and then called the meeting back to order.

Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)

Chairman Patton opened public comments.

Kyle Marshall, 7995 Holly Court, spoke on behalf of the Denver Spartus Lacrosse Team and asked the Board to fund the Rotary Park.

Bob Hecht, 8351 Pine Lake Road, said he was on the Board of Directors for the East Lincoln Rescue Squad. He said when the county did not renew their contract, the biggest question was what to do with what they had. He said he was excited to work with the county and happy when the county agreed to put the Farmer's Market there. He encouraged the Board to move forward with the plans.

Robert Avery, 4460 Hwy. 182, Crouse, asked the Board to consider doing a county survey.

Leo Soorus, 7843 Nine Iron Court, Denver, said he is new to the area and joined the Rotary Club. He said he was elated for the park to be built and asked the Board to move forward.

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

Special Teams Presentation: Bill Summers gave a presentation on the Special Operations Teams in Lincoln County.

Medical Insurance Coverage and Medical Voluntary Benefits for 2014-15: Tracy Jackson presented the following information:

It is recommended that the Board approve a 6.5% increase in the County's portion of the medical insurance premiums and a 0% increase in the employee premiums for 2014-15.

Each year, prior to the budget, we meet with Mark Ill to help determine what changes may be needed to our medical insurance plan to ensure the financial stability of the County's Health Insurance Fund. The analysis attempts to account for medical inflation, our claims history, and any required legislative changes.

For the first six months of this year, we have seen a 16% increase in medical claims over 2012-13. If this trend continues we will be approximately \$178,000 over budget in 2013-14. The net position of the Health Fund as of June 30, 2013, equates to 58% coverage of our annual claims expense; our goal was to achieve 50% coverage, so we are in a strong position. However, with the increase in the cost of claims and an additional \$189,000 in costs required by the affordable care act, Mark Ill initially recommended an

6.59% overall increase in our rates, which would result in about \$435,000 in additional revenue to the fund.

We felt that employees could not absorb an increase this year in health care costs, and are instead recommending a 6.5% for County portion only which would increase contributions to the Health Fund by \$359,810. No increase in the employee premiums is proposed.

We are also recommending that we offer dental coverage through Ameritas rather than Blue Cross Blue Shield.

Some changes to the voluntary benefits offered to employees, are also recommended. Assurity has advised us that they will no longer offer the C240 Cancer Insurance Policy. We will now offer two types of policies through Humana. We will now also offer a Long Term Disability policy through AUL.

Commissioner Robinson said the county needs to look at the employees absorbing more of the insurance costs. He said it was hard to make this decision without any information about a raise for county employees.

Mr. Jackson said at this point, he is not planning for a salary increase.

The Board discussed the insurance increase and raises for county employees.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the medical insurance coverage and voluntary benefits for 2014 – 2015 as presented and to refer the whole medical cost dilemma to the committee for a long-term recommendation. He added that finding money for pay increases for employees needs to be a priority.

Recommendation from Planning Board: Andrew Bryant presented the following:

PD #2014-1 - Shea Homes Limited Partnership, applicant

The Planning Board voted 8 – 0 to recommend approval with the adopted Statement of Consistency and Reasonableness.

This vote does come after an amendment to Shea Homes development plan that accurately reflects the Pulte buffer, the 1000' buffer that they and Hedrick Industries had agreed upon previously. No conditions were added by the Planning Board to this plan.

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

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve PD #2014-1 – Shea Homes Limited Partnership, applicant.

VR #2014-1 - Shea Homes Limited Partnership, applicant

VR #2014-1 Shea Homes Limited Partnership, applicant (Parcel ID# 85734, 02441, 31428, 51876, 32945, 58834, 58835, 86073, 86072, 86071 and 51881) A request for a zoning vested right for a period of five years for a planned residential development with up to 1,650 homes.

The proposed 600-acre site is located on the south side of N.C. 73 and west side of Little Egypt Road in Catawba Springs Township.

A recommendation from the Planning Board is not required.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve VR #2014-1 – Shea Homes Limited Partnership, applicant.

Commissioner Robinson thanked Shea Homes for choosing to come to Lincoln County. Chairman Patton thanked Shea Homes, David Clark and the quarry for all their efforts.

Rescue Squad Park: Tracy Jackson presented a summary of excerpts from prior Commissioner meeting minutes concerning the proposed Denver-Lake Norman Rotary Rescue Squad Park. Lincoln County agreed to collaborate with the Denver Rotary Foundation and assist in development of a public park to be named Rescue Squad Park. The lease agreement indicates the county was to lease property to the Rotary Foundation for forty years at \$1 per year. The Rotary Foundation was to develop land for a public park since the county had no funds budgeted for the project. The Rescue Squad building and land on Highway 16 was to be sold and proceeds were to be used for park development. The Rotary Foundation was to maintain the real property and facilities of the park. It was recently assumed the county would maintain the park, but that is not part of the original lease agreement. The county was to provide staff assistance to the Rotary Foundation with technical, management, and administrative support for the design and construction of the park. In the beginning it was made clear that no county funds would be needed for this project, but somehow expectations have changed along the way. Nothing was formalized between the county and Rotary Foundation other than what was previously agreed upon in the 2009 lease agreement and budgeted in this fiscal year. At this point there is a large gap in terms of the bid prices for various structures and improvements. He said he is reluctant to recommend committing any additional funds to this project on FY 14 as it could have a negative impact on existing county projects. To date the county has committed \$150,000 and ongoing staff time and technical advice. If the Board feels it is urgent to commit additional funds, he suggested delaying the proposed expansion of the East Lincoln Community Center, which was budgeted at \$870,000, but recent bids came in over budget. Architectural and engineering work has been completed, leaving approximately \$790,000 for the project. This project could be scaled back or delayed until a future budget year.

Mr. Jackson's recommendation is to provide no further funding for Rescue Park other than what has been previously committed in budget and written agreement. He said if the

Board should decide to provide support beyond what was previously committed in written form, he suggested including an amendment to the 2009 lease agreement between the county and the Denver Rotary Foundation.

Commissioner Mitchem asked about the maintenance of the park.

Commissioner Klein asked about FY 15 fiscal planning. Mr. Jackson said it is very early in the process.

Commissioner Klein asked if there are any cost considerations taking the multipurpose building/farmer's market out of phase 1, at least until more fiscal information is available to proceed.

Mr. Jackson said staff has researched that and it would substantially change the bid, having to go back out for bids if that was removed.

Commissioner Klein said speaking to the maintenance of the park, on the first PARTF Grant, it was indicated that the Rotary Foundation would maintain the park. The Grantor said that really was not a good idea, and the grant did not get a lot of points. When the application was redone, the amount was reduced and said the county would take care of the maintenance of the park.

Erma Deen Hoyle said this is correct, the county is responsible for the maintenance of the facility as per the agreement for the PARTF Grant. She said it does not have to be entirely the county, but the county is the one that would ultimately oversee it. The Charter School and other entities will do some of the maintenance, but it ultimately the county's responsibility.

There were questions about why the lease was not updated with the maintenance information.

Todd Wulhorst, speaking on behalf of Rotary, said because the farmer's market was not bid as an alternate, like the parking and sidewalks, that either the bid has to be accepted as is or the bids have to be redone. He said there is a \$500,000 shortfall. Mr. Wulhorst said Rotary Foundation has generated about \$200,000 so far in its fundraising campaign.

A MOTION by Commissioner Mitchem to deny further funding for the Rescue Squad Park, over the \$150,000 until the budget is looked into further, and no more will be committed before July 1, 2014. The \$150,000 will be for the multipurpose building.

Mr. Deaton asked if Mr. Mitchem would slightly amend his motion that as part of that \$150,000, make it subject to an amended contract that comes back to the Board, cleaning up and getting more clarification.

Commissioner Mitchem withdrew his motion.

UPON MOTION by Commissioner Klein, the Board voted unanimously to table until April 21 to see how the budget is looking.

A substitute motion by Commissioner Mitchem to not allocate any additional funding until after the 2014/15 budget, other than the \$150,000 already committed.

Substitute Motion Vote: 1 – 4 AYES: Mitchem; NOES: Patton, Martin, Robinson, Klein

Vote of Commissioner Klein's Motion: 4 – 1

AYES: Patton, Klein, Martin, Robinson

NOES: Mitchem

Update on West Lincoln Splash Pad: Mr. Jackson said there were questions raised at the last meeting by a subcontractor about the bidding process. He said they are moving forward and do not anticipate any delays, but want to update the Board on this. He said they followed up with this subcontractor, there was only one bid on the project. He said the bid was over the informal dollar threshold and was statutorily rejected. The submitting general contractor was contacted and told of the situation. Three splash pad manufacturers were contacted in an effort to see why the prices were different and apparently labor was quoted in the price sent to the Engineer. Vortex, one of the 3 quoted manufacturers, offered the option of purchasing the equipment installation through a competitive bidding group. Several competitive bidding groups were researched and one of these was presented a price with Vortex Equipment installation and construction that was a manageable number. This number was presented to the Board on February 3 and the Board approved award of that contract. He said the other subcontractor was given an opportunity to voice their concerns. He said a formal letter was sent to the subcontractor explaining the County's position. Mr. Jackson said staff has tried it's best to move this along to avoid any delays.

Motion to approve Agreement of Sale and Purchase: **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the agreement for the Sale and Purchase of subject property for the moving of the Optimist Club Convenience Site.

Other Business:

Appointments: **UPON MOTION** by Commissioner Robinson, the Board voted unanimously to make the following appointment/reappointments:

- Recreation Commission
 - Todd John Stempien
- Board of Health
 - Appoint Patrick Fletcher, PharmD
 - Reappoint Dr. Cordell Scott, DDS (Chair)
 - Reappoint Mrs. Kathy Caudle (Vice Chair).

Closed Session: UPON MOTION by Commissioner Mitchem, the Board entered Closed Session pursuant to NCGS (a) (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.

The Board returned to Open Session and Chairman Patton announced no action was taken in Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners