

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 18, 2013

The Lincoln County Board of County Commissioners met November 18, 2013 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

Call to Order: Chairman Patton called the November 18, 2013 meeting of the Lincoln County Board of Commissioners to order and led in an Invocation.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, November 18, 2013
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 Refunds
 - August 18 - September 1, 2013
 - Capital Project Ordinance #2
 - Approval of Minutes
 - Surplus Property
 - Recommendation Approve Memorandum of Agreement and Accept \$101,500 Grant from the

North Carolina Department of Public Safety, Emergency Management for a Western Shelter Project

- Resolution #2013-35: Resolution Designating Applicant's Agent to Apply for FEMA Funds

3. Planning Board Recommendations - Randy Hawkins

CUP #331 American Tower Corp., applicant (Parcel ID# 55985)
CUP #291A Francis Sutphin, applicant (Parcel ID# 24834)

4. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
5. Public Hearing - Industrial Development Incentive Grant for Prospective Industry and motion to adopt Resolution #2013-36: Resolution to Adopt Economic Incentive Grant Agreement- Crystal Gettys
6. Motion to adopt Resolution #2013-37: Joint Resolution of the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin Counties Approving and Adopting Partners Behavioral Health Management's Local Business Plan 2013-2016 - Rhett Melton
7. Presentation on No-kill Shelter - Karen Bunker
8. Lincoln County Local Emergency Planning Committee (LCLEPC) Annual Report - Fred Jarrett
9. Motion to approve Cunningham Recreation as sole source vendor for multi-component playground equipment and crawl tunnel and Playworld Preferred for the cozy cocoon for Rock Springs Nature Preserve as submitted in response to Request for Proposal #2014-0909 - Erma Deen Hoyle

Motion to also allow purchase of t-swing, single post swing, spring riders and safety surfacing from Playworld Preferred as lower bidder.
10. Motion to Authorize Lincoln County Public Works to request qualification proposals for the recycle building for material handling at the Crouse Landfill - Don Chamblee
11. Motion to approve change order #1 with Gilbert Engineering Company to increase the construction contract by \$38,205.84 to a total of \$3,487,205.84 for the maintenance, safety and operational improvements at the water treatment plant - Don Chamblee
12. Motion to approve the Purchase of a 2013 Caterpillar 305E CR Mini-Excavator with a Kaufman FDW-7K-18 Trailer from Carolina CAT located in Charlotte, NC in the amount of \$59,848.00, utilizing State contract prices- Don Chamblee
13. Second Vote: Motion to Approve Revised Ordinance Regulating Special Events and Mass Gatherings - Martha Lide
14. Finance Officer's Report - Deanna Rios
15. County Manager's Report
16. County Commissioners' Report
17. County Attorney's Report
18. Vacancies/Appointments
19. Calendar
20. Other Business
 - Register of Deeds Report
 - Property Tax Collection Report
21. Closed Session Pursuant to NCGS § **143-318.11**
 - (a) (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; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Adjourn

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt the agenda moving Public Comments to 7a.

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

- Tax Requests for Refunds
- August 18 - September 1, 2013
- Capital Project Ordinance #2
- Approval of Minutes
- Surplus Property
- Recommendation Approve Memorandum of Agreement and Accept \$101,500 Grant from the North Carolina Department of Public Safety, Emergency Management for a Western Shelter Project
- Resolution #2013-35: Resolution Designating Applicant's Agent to Apply for FEMA Funds

Recommendations from Planning Board:

Randy Hawkins presented the following recommendations:

CUP #331 American Tower Corp., applicant (Parcel ID# 55985) A request for a conditional use permit to erect a 240-foot telecommunications tower in the R-T (Transitional Residential) district.

The proposed 29-acre site is located on the east side of Bill Sain Road about 2,200 feet east of Cat Square Road in Howards Creek Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve Conditional Use Permit 331- American Tower Corp., applicant with the findings of fact as presented by the Planning Board.

CUP #291A Francis Sutphin, applicant (Parcel ID# 24834) A request to amend a conditional use permit allowing group digs and camping at the old Reel Amethyst Mine. The permit currently limits participation to members of the Mountain Area Gem and Mineral Association and limits digs to four weekends a year. The applicant is requesting amendments to allow other individuals and groups to participate, to allow up to one weekend dig per month and to revise the permit's parking restrictions. The 62-acre parcel is located on the east side of Timber Road about 1,000 feet south of Reinhardt Circle in Ironton Township.

The Planning Board voted 9-0 to recommend approval with revisions to some of requested amendments.

- 1) *A driveway permit shall be obtained from the N.C. Department of Transportation.*
- 2) *The Lincoln County Planning and Inspections Department shall be notified in advance of*

each dig.

- 3) *Participation in the digs shall be limited to members of the Mountain Area Gem and Mineral Association.*
- 4) *No camping shall take place in the 100-year flood plain.*
- 5) *Alwood Lane shall be used only in case of an emergency.*
- 6) *The digs shall be limited to no more than 150 participants per day.*
- 7) *The association shall maintain liability insurance coverage and file proof of coverage with the county each year.*
- 8) *No vehicles shall be parked on or within sight of Timber Road or near any adjoining properties.*
- 9) *The association shall work with the property owner to clear sufficient areas for primitive camping on a remote area of the property away from any adjoining properties. No permanent camping structures shall be erected. Portable toilets shall be provided on site during the digs and shall be removed when the digs end.*
- 10) *After each dig, the association shall work with the property owner to restore the collecting area, including removing any loose dirt to prevent runoff into nearby streams, installing silt fences near any streams to further prevent any damage, and cleaning up and removing trash generated during the event.*
- 11) *Digs shall be conducted no more than four weekends per year, Friday through Sunday*

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve Conditional Use Permit No. 291A – Francis Sutphin, applicant with the findings of fact presented by the Planning Board with the amendments.

Public Hearing - Industrial Development Incentive Grant for Prospective Industry and motion to adopt Resolution #2013-36: Resolution to Adopt Economic Incentive Grant Agreement- Crystal Gettys: Crystal Gettys presented the following information concerning an Economic Incentive Grant for a new company, Medline Industries.

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

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt Resolution #2013-36: Resolution to Adopt Economic Incentive Grant Agreement with Medline Industries.

Motion to adopt Resolution #2013-37: Joint Resolution of the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin Counties Approving and Adopting Partners Behavioral Health Management's Local Business Plan 2013-2016 - Rhett Melton: Rhett Melton, with Partners Behavioral Health Management, presented the Partners Behavioral Management's Local Business Plan and requested the Board's approval of a Joint Resolution Approving and Adopting Partners Behavioral Health Management's Local Business Plan 2013-2016.

UPON MOTION by Commissioner

**JOINT RESOLUTION
OF**

**THE BOARDS OF COUNTY COMMISSIONERS
OF
BURKE, CATAWBA, CLEVELAND, GASTON, IREDELL, LINCOLN, SURRY AND YADKIN
COUNTIES
APPROVING AND ADOPTING
PARTNERS BEHAVIORAL HEALTH MANAGEMENT'S LOCAL BUSINESS PLAN 2013-2016**

WHEREAS, Partners Behavioral Health Management ("Partners BHM") was established by joint agreement between the Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin counties on July 1, 2012, by merging the former Mental Health Partners, Crossroads Behavioral Healthcare, and Pathways Local Management Entity (LME) Area Authorities; and

WHEREAS, North Carolina General Statute § 122C-115.2 requires each Local Management Entity-Managed Care Organization (LME-MCO), including Partners BHM, periodically to provide a Local Business Plan (LBP) detailing information about how each LME-MCO will meet State standards, laws and rules for ensuring quality mental health, intellectual developmental disabilities, and substance abuse services and outcome measures for evaluating program effectiveness, including state and local initiatives; and

WHEREAS, on October 17, 2013, the Board of Directors of Partners BHM thoroughly discussed and approved the attached "Partners Behavioral Health Management Local Business Plan 2013-2016;" and

WHEREAS, North Carolina General Statute § 122C-115.2 requires Partners BHM's LBP be approved by the eight Boards of County Commissioners in Partners BHM's catchment area before submitting that LBP to the Secretary of the North Carolina Department of Health and Human Services for certification.

NOW THEREFORE, BE IT JOINTLY RESOLVED that the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin counties hereby approve and adopt the attached "Partners Behavioral Health Management Local Business Plan 2013-2016," in compliance with North Carolina General Statute § 122C-115.2.

ADOPTED AND RATIFIED in eight counterparts by the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin.

This the 18th day of November, 2013.

[Signatures of the parties are set forth on pages ____ through ____.]
[The remainder of this page intentionally left blank.]

UPON MOTION by Commissioner Klein, the Board voted unanimously to adopt Resolution #2013-37: Joint Resolution of the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin Counties Approving and Adopting Partners Behavioral Health Management's Local Business Plan 2013-2016.

Presentation on No-kill Shelter - Karen Bunker introduced Will Edmiston, who gave a presentation for Make Lincoln County No Kill.

Their mission is to transform Lincoln County and Lincoln County Animal Services into a more compassionate community dedicated to saving all animals and their goals are to shift LCAS efforts to one of saving and placement, significantly reduce animals entering the shelter, reducing costs through alternative funding, actively engage the community in shelter support, improve the standards of animal care and treatment, and aggressively educate and significantly increase adoptions, spay/neuter. "No kill" is a humane, sustainable, cost-effective model framed by public health and safety, and fiscal responsibility to taxpayers. It achieves a 90% or higher

live release rate, differentiates between euthanasia and killing, uses euthanasia only as a last resort, rejects killing as a means of population control, defines that “adoptable” includes the old, deaf, blind, disfigured, or disabled, proactively seeks every option to find homes for every animal, and acknowledges no kill is not 100% no kill. They presented the no kill equation to the board. On average 35% of dogs and 68% of cats are being killed today in the shelter. Make Lincoln County No Kill volunteers have committed 1000+ hours a month in support of the no kill mission and goals once formally adopted. If adopted, Lincoln County could become a model for success, being the first NC municipal shelter to be designated a no kill shelter and achieving a 90% save rate.

Mr. Edmiston asked for the Board’s support in a vote affirming this designation.

Commissioner Klein said the Commissioners had the opportunity to sit through a more detailed presentation of this plan from Ms. Banker and Mr. Edmiston. He said they are to be commended for coming forward with the approach taken.

Chairman Patton said they appreciate the efforts put forth. He said he and Commissioner Robinson both have animals that came from the Lincoln County Animal Shelter. He said they look forward to somehow making this work and it will take a commitment from both sides. He said this Board will be willing to meet in the middle and MLCNK will probably have to meet in the middle too, but in the end if saving animals is the main goal, this will work.

Commissioner Klein asked if Jena Healy was in the audience and acknowledged her for originally coming forward asking the Board to consider the notion of no kill. He said the Board appreciates her efforts.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt a no kill philosophy for the Lincoln County Animal Shelter and direct staff to work with the citizens of Lincoln County to implement the goal of a live release rate of 90% of animals who enter the shelter.

Public Comments: Chairman Patton opened public comments.

Martin Oakes asked that the Board not allow public documents to be presented at the meetings since this is unfair to the citizens.

Being no additional speakers, Chairman Patton closed public comments.

Lincoln County Local Emergency Planning Committee (LCLEPC) Annual Report - Fred Jarrett, Chairman of the Lincoln County Local Emergency Planning Committee. He congratulated Debbie Hartsell for an award received, for outstanding achievements in emergency management.

Lincoln County Local Emergency Planning Committee (LCLEPC) Annual Report

2013

This being the second annual report since the LCLEPC was returned to active status January 14, 2010, the committee has steadily progressed in understanding roles and responsibilities. Chris LeTourneau, North Carolina Emergency Management Program Coordinator, addressed the LCLEPC to communicate the State responsibilities and expectations the State has for a LEPC.

At the June 15, 2012 meeting the current officers, Fred Jarrett – Chairperson and Ron Rombs-Vice-chairperson, agreed to remain as officers for the next two years.

The LCLEPC membership has been active in providing oversight and assuring the emergency operations for the county are moving forward to meet the needs of the citizens should a disaster strike.

Significant advances in county preparedness that have been made during this period of time:

1. Lincoln County Emergency Operations Plan (*All Hazards*) and Supplement have been approved,
2. George Struck – President of NC Voluntary Organizations Active in Disasters provided information on the availability of essential resources from his organization during disasters,
3. Eric Wiseman – North Carolina Emergency Management Multi-Hazard Planner provided the LCLEPC information on how to conduct a multi-hazard exercise,
4. Exercise Planning subcommittee is preparing to conduct a small scale hazard exercise,
5. Point of Distribution (POD) and Donated Goods subcommittee are/have identified sites across the county to serve as distribution points for needed goods during disasters,
6. The SARA Tier II reporting companies in the county were reviewed for storage of the extremely hazardous chemicals stored at the company facilities,
7. A rehabilitation trailer has been purchased and an Incident Command trailer is also being considered for purchase,
8. A grant was acquired for the flow of hazardous material commodities through the county,
9. Preparation was made for the McGuire Nuclear Station grade drill on August 6th in which feedback for the FEMA observers noted the effective coordination and integration of the various emergencies preparedness organizations.

Public Comments: Chairman Patton opened public comments.

Being no speakers, Chairman Patton closed public comments.

Motion to approve Cunningham Recreation as sole source vendor for multi-component playground equipment and crawl tunnel and Playworld Preferred for the cozy cocoon for Rock Springs Nature Preserve as submitted in response to Request for Proposal #2014-0909

Erma Deen Hoyle requested approval of Cunningham Recreation as sole-source vendor to supply the multi-component playground equipment and Playworld Preferred for the cozy cocoon for Rock Springs Nature Preserve. Cunningham is the regional distributor for Gametime Equipment and Playworld Preferred is the regional distributor for Playworld Systems (mfg) as used in the design. T-swings, single post swings and spring toys, as well as safety surfacing

would also be purchased from Playworld Systems, the lower bidder of the proposals for those items. Installation would be coordinated between the respective products.

A Request for Proposal was issued for playground design and eight vendors responded. Following review by staff, community members and the Lincoln County Parks and Recreation Commission, the design submitted by Cunningham Recreation was selected, using collective of price, quality of product, design appeal, number of play elements, number of users, as well as positive past experience with the vendor. The cozy cocoon is a unique feature, especially beneficial to autistic and special needs children. The T-swings and single post swings provide more openness to the site, keeping with the overall nature preserve theme.

The recommendation is to use the two Gametime multi-play units and crawl tunnel specified by Cunningham, and the cozy cocoon, swings, spring riders and safety surfacing specified by Playworld.

Ms. Hoyle recommended using the two Gametime multi-play units and crawl tunnel specified by Cunningham, and the cozy cocoon, swings, spring riders and safety surfacing specified by Playworld. She requested authorization for the Parks and Recreation Director and Public Works Director to negotiate a contract with the vendors, with total price to include installation and surfacing. Total price for the entire project would not exceed the \$75,000 budgeted for the project and included in the CIP. She also requested approval for the Chairman and/or County Manager to sign the contract for timely delivery of product.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve Cunningham Recreation as sole source vendor for multi-component playground equipment and crawl tunnel and Playworld Preferred for the cozy cocoon for Rock Springs Nature Preserve as submitted in response to Request for Proposal #2014-0909 and to also allow purchase of t-swing, single post swing, spring riders and safety surfacing from Playworld Preferred as lower bidder.

Motion to Authorize Lincoln County Public Works to request qualification proposals for the recycle building for material handling at the Crouse Landfill - Don Chamblee presented the following:

The Lincoln County Public Works, Solid Waste Division would like to procure an engineer/general contractor through the Design Build Qualification process.

He said they are seeking Commission approval to announce and advertise request proposals for interested and qualified firms to provide qualifications for design and construction of the recycle building at the existing landfill in Crouse in accordance with NCGS 143-64.31.

The CIP includes \$50,000 for the building that was approved in the FY 2013 budget. An additional grant has been secured in the amount of \$15,000 from the State of North Carolina Division of Environmental Assistance and Customer Service to allow for a total budget of \$65,000 for the building.

This project will provide shelter and protection for the recyclable materials from the weather and elements allowing for more revenue to be generated, preventing loss and waste due to damage to cardboard. The building will house the cardboard bailer for clean and safe operation. The cardboard material after bailing is currently exposed to weather and elements causing the cardboard to have water damage and unable to sell for revenue and in need of disposing of in the landfill. The pre-manufactured building is needed to shelter the recyclables to prevent any damage to the recyclables.

Typically metal building manufacturers provide the engineering for the structure. There are also numerous general contractors that can efficiently combine the site, foundation and building design with construction to build a basic metal building. This should be more cost effective and timely than seeking a design firm for design and then seeking bids for construction.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to authorize Lincoln County Public Works to request qualification proposals for the recycle building for material handling at the Crouse Landfill.

Motion to approve change order #1 with Gilbert Engineering Company to increase the construction contract by \$38,205.84 to a total of \$3,487,205.84 for the maintenance, safety and operational improvements at the water treatment plant- Don Chamblee presented the following:

Lincoln County Public Works is seeking approval of change order #1 with Gilbert Engineering Company to increase the construction contract by \$38,205.84 to a total of \$3,487,205.84. This is requested to be funded from the water and sewer fund.

The Water Treatment Plant is currently undergoing construction for plant maintenance and improvements in the amount of \$3.48 million with Gilbert Engineering Company and is about 60% complete. During construction several issues have arose and required changes to the construction.

Sediment Basin Maintenance & Improvements: Part of the existing contract was to apply a sealer on the existing walls of the sediment basins. When Sediment Basin #2 was emptied to apply the sealer several places had water leaking from the adjacent basin that could not be sealed. A chemical injection was done in those areas to stop the leaks so the surface sealer could be applied.

Chemical Room Improvements: The existing chemical room is being completely replaced with new equipment and tanks. During the process several safety and operational issues were identified. In order to keep a safe work environment for the operators several modifications are requested and included in the change order.

Recommendation:

Request that the Board of Commissioners approve the change order with Gilbert Engineering Company for the maintenance, safety and operational improvements at the water treatment plant.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the Change Order as presented by Mr. Chamblee.

Motion to approve the Purchase of a 2013 Caterpillar 305E CR Mini-Excavator with a Kaufman FDW-7K-18 Trailer from Carolina CAT located in Charlotte, NC in the amount of \$59,848.00, utilizing State contract prices- Don Chamblee presented the following:

Lincoln County Public Works requests approval from the Board of Commissioners to purchase a budgeted 2013 Caterpillar 305E CR Mini-Excavator utilizing State contract prices and a 2013 Kaufman FDW-7K-18 Trailer from Carolina CAT located in Charlotte, North Carolina in the amount of \$59,848.00.

The 2013 Caterpillar 305E CR Mini-Excavator with a 2013 Kaufman FDW-7K-18 Trailer would replace a 2002 Bobcat B-200 Backhoe (serial #570211027) and a 2002 Hudson 5 Ton Trailer (serial #1E9BF24282L286647) which both have considerable wear and tear. The backhoe and trailer are used throughout the County to excavate for minor water leaks and small diameter water service installations. This equipment will have a standard 12 month/unlimited hours warranty.

This is a budgeted item for the 2013-2014 Fiscal Year. Funding will be from CIP PW-40-7120E and GL #64-7120-5550.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve the purchase of a 2013 Caterpillar 305E CR Mini-Excavator with a Kaufman FDW-7K-18 Trailer from Carolina CAT located in Charlotte, NC in the amount of \$59,848.00, utilizing State contract prices.

Second Vote: Motion to Approve Revised Ordinance Regulating Special Events and Mass Gatherings - Martha Lide said modifications to the Special Events Ordinance were approved by the Board at the August 19, 2013 meeting. The vote for approval was not unanimous, therefore, the Ordinance must be brought back to the Board for a second review and approval before the recommended changes will take effect.

A MOTION by Commissioner Robinson to approve the revised Ordinance Regulating Special Events and Mass Gatherings as presented by Ms. Lide. VOTE: 4 – 1 (Mitchem opposed)

Finance Officer's Report: Deanna Rios presented the Finance Officer's Report.

County Manager's Report: Nothing reported.

County Attorney's Report: Nothing reported.

County Commissioners' Report: Nothing reported.

Vacancies/Appointments: Due to Mr. George Arena's resignation, there is a current vacancy on the CEDC Board.

Closed Session: **UPON MOTION** by Commissioner Robinson, the Board voted unanimously to enter closed session NCGS § **143-318.11** (a) (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; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

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

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners