

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, SEPTEMBER 21, 2015**

The Lincoln County Board of County Commissioners met September 21, 2015 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

**Commissioners Present:**

Carrol Mitchem, Chairman  
Bill Beam, Vice Chair  
Martin Oakes  
Cecelia A. Martin  
Alex E. Patton

**Others Present:**

Kelly G. Atkins, County Manager  
Wesley L. Deaton, County Attorney  
Amy S. Atkins, Clerk to the Board

**Call to Order:** Chairman Mitchem called the September 21, 2015 meeting of the Lincoln County Board of Commissioners to order and called for a Moment of Silence.

**Presentation of the Flags** – Cub Scout Troop 707 presented the flags before the meeting started.

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

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, September 21, 2015**  
**6:30 PM**

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

Call to Order

Moment of Silence

Presentation of Flag Ceremony - Cub Scout Pack 707

1. Adoption of Agenda
2. Consent Agenda
  - Tax Requests for Refunds Over \$100 - 8/17 - 8/30/15
  - Approval of Sole Source Purchase of Ready ANIMATORS in the amount of \$7510.00 for the Library
  - Acceptance of Senior Health Insurance Information Program (SHIIP) Grant
  - Industry Appreciation Month Proclamation
3.
  - Planning Board Recommendations - Randy Hawkins
  - PCUR #165 Prestige Corporate Headquarters, LLC
  - CUP #336A Patricia McCaffery and Robert Seitz, applicants
  - CUP #345 William Leonhardt, applicant
  - ZMA #620 James Canipe, applicant
  - ZMA #621 William Leonhardt, applicant
  - ZMA #622 JVP Fit Enterprises, LLC, applicant
  - ZMA #623 Richard Smith, Brenda Smith, Lee Caldwell, Sharon Page, Richard Page, Emily Toto, John Black, Richard Ferguson, Steve McIntrye, Lisa Windell, Jerry Windell, Danny Scott, Larry Caldwell et al, applicants
4. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
5. Revised Airport Operating Agreement - Joe Tate
6. Water Treatment Plant Permitting and Design Contract - Don Chamblee
7. **Motion** to set public hearing for October 5, 2015 at 6:30 p.m. for Possible Refunding of Debt  
**Introduction, Motion and Second** to Adopt Resolution (1) Authorizing Pursuing an Installment Refinancing, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to that Refinancing - Deanna Rios
8. Finance Officer's Report
9. County Manager's Report

10. County Commissioners' Report
11. County Attorney's Report
12. Vacancies/Appointments
13. Calendar
14. Other Business

Information Only - No Action Needed

- Register of Deeds Report
- Property Tax Collection Report

15. Closed Session – Pursuant to NCGS § 143-318.11. **Closed sessions.** (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

Adjourn

**Consent Agenda:** UPON MOTION by Commissioner Oakes, the Board voted unanimously to adopt the agenda as presented.

- Tax Requests for Refunds Over \$100 - 8/17 - 8/30/15
- Approval of Sole Source Purchase of Ready ANIMATORS in the amount of \$7510.00 for the Library
- Acceptance of Senior Health Insurance Information Program (SHIIP) Grant
- Industry Appreciation Month Proclamation

\*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

**Planning Board Recommendations:** Randy Hawkins presented the following recommendations from the Planning Board.

**PCUR #165 Prestige Corporate Headquarters, LLC** (Parcel ID# 33266) A request for a parallel conditional use rezoning of 5.7 acres from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit a self-storage facility to be expanded with the addition of storage areas for recreational vehicles and boats. The property is located at 445 N. NC 16 Hwy., on the west side of N.C. 16 Business and north side of Forest Oak Drive, in Catawba Springs Township.

**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Statement of Consistency and Reasonableness for PCUR #165 – Prestige Corporate Headquarters, LLC.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Rezoning Request for PCUR #165 – Prestige Corporate Headquarters, LLC.

**UPON MOTION** by Commissioner Beam, the Board voted unanimously to approve the Conditional Use Permit based on the Findings of Fact presented by the Planning Board.

**CUP #336A Patricia McCaffery and Robert Seitz, applicants** (Parcel ID# 60294) A request to amend a conditional use permit for a kennel to allow an area on the east side of the site to be used by customers as a dog park. The 6.15-acre parcel is located at 7897 Natalie Commons Drive, on the north side of Natalie Commons Drive about 1,000 feet west of N.C. 16 Business, in Catawba Springs Township.

**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Martin, the Board voted 4 – 1 (Oakes against) to approve CUP #336A – Patricia McCaffery and Robert Seitz, applicants with the Findings of Fact presented by the Planning Board.

**CUP #345 William Leonhardt, applicant** (Parcel ID# 13634) A request for a conditional use permit to establish a manufactured home park in the R-T (Transitional Residential) district by placing four additional manufactured homes on a site with five existing manufactured homes. The 17.3- acre parcel is located on the west side of Shoal Road about 1,600 feet south of N. C. 182 in Howards Creek Township.

**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Beam, the Board voted (Oakes against) to approve CUP #345 – William Leonhardt, applicant with the Findings of Fact presented by the Planning Board.

**ZMA #620 James Canipe, applicant** (Parcel ID# 13864) A request to rezone 3.5 acres from R-SF (Residential Single-Family) to R-R (Rural Residential). The property is located on the west side of Chrysanthemum Lane about 800 feet south of Wyant Road in Howards Creek Township.  
**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Martin, the Board voted unanimously to approve the Statement of Consistency and Reasonableness for ZMA #620 – James Canipe, applicant.

**UPON MOTION** by Commissioner Martin, the Board voted unanimously to approve the rezoning request for ZMA #620 – James Canipe, applicant.

**ZMA #621 William Leonhardt, applicant** (Parcel ID# 13626) A request to rezone 1.2 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). The property is located on the east side of Shoal Road about 500 feet south of N.C. 182 in Howards Creek Township.

**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Martin, the Board voted unanimously to approve the Statement of Consistency and Reasonableness for ZMA #621 – William Leonhardt, applicant.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the rezoning request for ZMA #621 – William Leonhardt, applicant.

**ZMA #622 JVP Fit Enterprises, LLC, applicant** (Parcel ID# 74083) A request to rezone 0.72 acre from B-N (Neighborhood Business) to B-G (General Business). The property is located on the west side of N.C. 16 Business about 500 feet south of Denver Drive in Catawba Springs Township.

**The Planning Board voted 8-0 to recommend approval.**

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Statement of Consistency and Reasonableness for ZMA #622 – JVP Fit Enterprises, LLC, applicant.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the rezoning request for ZMA #622 – JVP Fit Enterprises, LLC, applicant.

**ZMA #623 Richard Smith, Brenda Smith, Lee Caldwell, Sharon Page, Richard Page, Emily Toto, John Black, Richard Ferguson, Steve McIntrye, Lisa Windell, Jerry Windell, Danny Scott, Larry Caldwell et al, applicants** (Parcel ID# 52787) A request to rezone 2.3 acres from CU I-L(Conditional Use Light Industrial) to B-G (General Business). The property is located on the southside of Forest Oak Drive about 500 west of N.C. 16 Business in Catawba Springs Township.

**The Planning Board voted 8-0 to recommend the request be denied.**

Commissioner Beam said the Board's job here is easy – this business on this location is dangerous and has proven to be dangerous. He said if they repeat history, they are doomed to make the same mistakes. He said he is in favor of the zoning change for safety and the fact that it could easily happen again.

Commissioner Oakes asked about the discussions between the County Attorney and the applicant's Attorney. Mr. Hawkins said with the UDO storage areas must be designated on the plans and screened. They received a revised plan today which shows they are proposing no outdoor storage on this site. Any outdoor storage would be a zoning designation. If the building permit is issued based on this site plan, it will be on record and any outdoor storage would be a violation.

Chairman Mitchem stressed the importance of observing and enforcing compliance.

Commissioner Oakes asked what the Board's liability is if the rezoning request is approved. Mr. Deaton said this would be a taking of a vested right and would require compensation.

**A MOTION** by Commissioner Beam, the Board voted 2- 3 (Oakes, Beam for; Mitchem, Patton, Martin against) to approve the amended Statement of Consistency and Reasonableness for ZMA #623.

**UPON MOTION** by Commissioner Martin, the Board voted 4 – 1 (BEAM against) to approve the Statement of Consistency and Reasonableness for ZMA #623.

**UPON MOTION** by Commissioner Patton, the Board voted 3 – 2 (Beam, Oakes) to deny the rezoning request for ZMA #623

Commissioner Patton said the issue is the outside storage, which has been addressed. The business did not do anything to be unsafe, they fire started elsewhere. He said although he understands the neighbor's concerns, he is not willing to basically take away someone's property.

Commissioner Martin said she was afraid this would set a precedence if approved.

Commissioner Oakes said if there is another fire at this site, the neighbors cannot get out.

**Public Comments:** Chairman Mitchem opened Public Comments.

Karen Bolick, 7568 Deer Track Drive, spoke concerning violations that have taken place at Universal Rubber Products. She thanked the Board for understanding their safety concerns. Mrs. Bolick spoke concerning the fire at Universal Rubber and compliance in the future.

Chairman Mitchem stressed to Mrs. Bolick that they should contact him directly if the business is not in compliance and it will be taken care of.

Brenda Smith, 7575 Forest Oaks Drive, spoke concerning complaint procedures. She said she recently sent complaints to Scott Sneed and he said they did not need to send in anymore complaints. Commissioner Oakes said the property owner has 30 days to come into compliance and then they could complain again.

Chairman Mitchem stressed to the residents that they should feel free to contact Commissioners with complaints.

Robert Avery, 4466 182 Crouse, old system need to bring Lincoln County forward into the future.

Ed Bristow spoke concerning the need for a new Senior Center. He addressed the power outage last week when it was difficult for seniors to get out of the building.

**Robert Avery**, 4466 Hwy 182, Crouse, spoke concerning an update to the Schedule of Values.

Rick Smith and what is the liability to the county when something else happens at the Universal Rubber site.

Being no additional speakers, Chairman Mitchem closed public comments.

**Revised Airport Operating Agreement:** Commissioner Oakes asked for this item to be tabled. Joe Tate presented the Agreement

**UPON MOTION** by Commissioner Beam, the Board voted unanimously to table until after the Airport Authority has approved.

**Water Treatment Plant Permitting and Design Contract:** Don Chamblee presented the following:

In December 2014 a study by Kimley-Horne provided a recommendation that the Lincoln County Water Treatment Plant be upgraded to increase the current capacity of 3.99 million gallons per day (MGD) to 8 MGD in order to continue to remain in compliance with North Carolina General Statutes, as well as to continue to provide water service to Lincoln County. The current average daily demand to the water plant is 2.61 MGD, with that average expected to continue to increase as Lincoln County population continues to grow.

Mr. Chamblee requested the Board's approval to enter into a contract with Woolpert, Inc. for the design of the Lincoln County Water Treatment Plant expansion for an amount not to exceed \$1,251,000.00 as outlined per task listed below:

- Task 1: Site Investigation - \$25,500 (Lump Sum)
- Task 2: Environmental Assessment - \$15,800 (Lump Sum)
- Task 3: Permitting - \$120,000 (Lump Sum)
- Task 4: WTP Design - \$420,400 (Lump Sum)
- Task 5: Bid Phase Services - \$41,800 (Lump Sum)
- Task 6: Construction Engineering & Administration – \$595,000 (Hourly Not to Exceed)
- Task 7: Reimbursables – (Lump Sum) \$32,500
- Task 8: Additional Services Pricing for each additional service task will be developed using the hourly rate as described on page A-ii of the Woolpert proposal. The additional services are not included in the not to exceed amount specified above.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the contract with Woolpert, Inc for the design of the Lincoln County Water Treatment Plan expansion.

**Motion to set public hearing for October 5, 2015 at 6:30 p.m. for Possible Refunding of Debt:** UPON MOTION by Commissioner Oakes, the Board voted unanimously to set a public hearing for October 5, 2015 at 6:30 p.m.

**Introduction, Motion and Second to Adopt Resolution (1) Authorizing Pursuing an Installment Refinancing, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to that Refinancing - Deanna Rios**

Chairman Martin introduced the following Resolution which was read by title, and moved it be adopted:

**RESOLUTION (1) AUTHORIZING PURSUING AN INSTALLMENT REFINANCING, (2) MAKING CERTAIN FINDINGS AND APPOINTMENTS AND REQUESTING APPROVAL OF THE LOCAL GOVERNMENT COMMISSION AND (3) CALLING A PUBLIC HEARING RELATING TO THAT REFINANCING**

**WHEREAS**, Davenport & Company LLC (“Davenport”), on behalf of the County, has distributed a Request for Proposals to secure a bank commitment for the refinancing of all the County’s 2006 outstanding Certificates of Participation;

**WHEREAS**, in order to secure required approval of the refinancing by the Local Government Commission of North Carolina, the County must make certain findings and must hold a public hearing;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County as follows:

1. The Board hereby finds and determines in connection with the proposed installment refinancing contract that (a) such proposed contract is necessary or expedient to the County, (b) such proposed contract, under current circumstances, is preferable to a general obligation bond issue of the County for the same purpose, (c) the sums estimated to fall due under such proposed contract are adequate and not excessive for their proposed purpose, (d) the County’s debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) no increase in taxes will be necessary due to the proposed contract and (f) the County is not in default regarding any of its debt service obligations.
2. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed contract under Article 8 of Chapter 159 of the General Statutes of North Carolina. The Board appoints Davenport as financial advisor and Robinson Bradshaw & Hinson P.A. as special counsel for the transaction. The Board calls for a public hearing on the proposed contract to be held at its regularly scheduled meeting on October 5, 2015 and for appropriate notice of that hearing to be published.
3. This Resolution shall become effective immediately upon its adoption.

Commissioner Oakes seconded the motion and the motion was adopted by the following vote:

AYES: Mitchem, Patton, Beam, Martin, Oakes

NAYS: None

**Finance Officers' Report:** Deanna Rios presented the Finance Officer's Report for July.

**County Manager's Report:** Mr. Atkins stated that funds from the Home Health sale have been received. He said staff is working with the Board of Education to locate a site for a new elementary school in East Lincoln.

**County Commissioners' Report:** Nothing reported.

**County Attorney's Report:** Nothing reported.

**Vacancies/Appointments:**

**Calendar:** Nothing reported.

Other Business: Commissioner Beam and Oakes will be getting their orientations very soon.

**Closed Session:** **UPON MOTION** by Commissioner Martin, the Board voted unanimously to enter Closed Session - Pursuant to NCGS § 143-318.11. **Closed sessions** (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

The Board returned to open session and Chairman Mitchem reported that no action was taken in closed session.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Carrol Mitchem, Chairman  
Board of Commissioners