

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 19, 2015

The Lincoln County Board of County Commissioners met October 19, 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 October 19, 2015 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence and led in the Pledge of Allegiance.

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 adding Discussion about Clock - Roby Jetton under Other Business and Item 14a – Closed Session.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, October 19, 2015
6:30 PM

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

Call to Order

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda – Motion to adopt agenda adding Item 14a
2. Consent Agenda
 - Extension of Original Contract for an Improvement Guarantee (Cash Bond) Approved by Board in October 2013
 - Annual Lincoln County Jail Health Plan
 - Resolution of Support for Centralina Mobility Management and Volunteer Transportation Services - NCDOT Enhanced Mobility of Seniors and Individuals with Disabilities Program - FY17 Grant Application
 - 2016 Holiday Schedule
3. Public Hearing - Fiscal Year 2017 Community Transportation Grant (5311) application - Ron Rombs
 - Motion to approve Community Transportation Program Resolution - Section 5311 - FY 2017 Resolution
 - Motion to approve Human Service Agency Transportation Resolution - State Funds - FY 2017 Resolution
4. Public Hearing - Fiscal Year 2017 Elderly and Disabled Grant (5310) application for rolling stock capital for TLC - Ron Rombs
 - Motion to approve Public Transportation 5310 Program Resolution
5. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
6. Fire Agreement with the City of Lincolnton - Rodney Emmett, Deputy Fire Marshal
7. Federal Advocate Presentation - Leslie Mozingo
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

- 14a. 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 Beam, the Board voted unanimously to adopt the agenda as presented.

- Extension of Original Contract for an Improvement Guarantee (Cash Bond) Approved by Board in October 2013
- Annual Lincoln County Jail Health Plan
- Resolution of Support for Centralina Mobility Management and Volunteer Transportation Services - NCDOT Enhanced Mobility of Seniors and Individuals with Disabilities Program - FY17 Grant Application
- 2016 Holiday Schedule

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

Public Hearing – Fiscal Year 2017 Community Transportation Grant (5311) application:
Ron Rombs presented

Chairman Mitchem opened the public hearing concerning Fiscal Year 2017 Community Transportation Grant (5311) application. Being no speakers, Chairman Mitchem declared the public hearing closed.

COMMUNITY TRANSPORTATION PROGRAM RESOLUTION

Section 5311

FY 2017 RESOLUTION

Applicant seeking permission to apply for Community Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by Oakes and seconded by N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy

requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, Lincoln County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project, prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE, be it resolved that the County Manager of Lincoln County is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I, Amy S. Atkins, Clerk to the Board do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the Lincoln County Board of Commissioners duly held on the 19th day of October, 2015.

Signature of Certifying Official

***Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal/ Subscribed and sworn to me (date) _____

*Notary Public **

115 W. Main Street, Lincolnton, NC, 28092

Printed Name and Address

My commission expires (date) _____



HUMAN SERVICE AGENCY TRANSPORTATION RESOLUTION

State Funds

FY 2017 RESOLUTION

Applicant seeking permission to apply for Human Service Transportation funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances, and the required local match.

A motion was made by Beam and seconded by N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services; and

WHEREAS, Lincoln County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project, prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, and all administrative requirements related to the applications made to and grants received from the North Carolina Department of Transportation;

NOW, THEREFORE, be it resolved that the County Manager of Lincoln County is hereby authorized to submit a grant application for state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I, Amy S. Atkins, Clerk to the Board do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the Lincoln County Board of Commissioners duly held on the 19th day of October, 2015.

Signature of Certifying Official

****Note that the authorized official, certifying official, and notary public should be three separate individuals.***

Seal Subscribed and sworn to me (date) _____

*Notary Public **

115 West Main Street, Lincolnton, NC, 28092

Printed Name and Address

My commission expires (date) _____



Public Hearing – Fiscal Year 2017 Elderly and Disabled Grant (5310) application for rolling stock capital for TLC: Ron Rombs presented

Chairman Mitchem opened the public hearing concerning Fiscal Year 2017 Elderly and Disabled Grant (5310) application for rolling stock capital for TLC. Being no speakers, Chairman Mitchem declared the public hearing closed.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve Public Transportation 5310 Program Resolution.

PUBLIC TRANSPORTATION 5310 PROGRAM RESOLUTION

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Status and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for public transportation projects; and

WHEREAS, the purpose of the Section 5310 program is to enhance mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all area.

WHEREAS, NCDOT has been designated as the State agency with principle authority and responsibility for administering the Section 5310 Program for small urbanized and rural areas; and

WHEREAS, Lincoln County hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, and all small administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.

NOW, THEREFORE, be it resolved that the (Authorized Official's Title)* County Manager of (Name of Applicant's Governing Body) Lincoln County is hereby authorized to submit a grant for federal and state funding, provide the required local match, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide public transportation services.

I (Certifying Official's Name)*Amy S. Atkins (Certifying Official's Title) Clerk to the Board do hereby certify that the above is true and correct copy of an excerpt from the minutes of a meeting of the (Name of Applicant's Governing Board) Lincoln County Board of Commissioners duly held on the 19th day of October, 2015.

Signature of Certifying Official

Date

***Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal Subscribed and sworn to me (date) _____

Notary Public Signature _____

Printed Name and Address

My commission expires (date) _____

Affix Notary Seal Here

Public Comments: Chairman Mitchem opened Public Comments.

Rudy Bauer, 8252 Blades Trail, said he would like to publicly thank the County Manager, Andrew Bryant, and David Ledford for their help with Covington on Lake Norman.

Robert Avery, 4466 Hwy 182, Crouse, spoke concerning the policies and procedures Lincoln County operates by and the need for updates to these.

Mike Futrell, 1556 Bumgarner James Lane, said he will be retiring at the end of November due to his wife having cancer and his own health problems. He thanked the Board and County Manager for the privilege of working for the County for 19 years.

Being no additional speakers, Chairman Mitchem closed public comments.

Fire Agreement with the City of Lincolnton: Rodney Emmett, Deputy Fire Marshal, presented an Agreement with the City of Lincolnton to form the Lincolnton Rural Fire District, a new fire district that will help 3 county departments that are at an insurance rating at a class 10 and considered unprotected. This will get them to a minimum of 9 and may get them to a 4 if they are within 1000 feet of a fire hydrant. This will affect Howard's Creek, Union and North 321.

Mr. Atkins said after being hired as Manager in December, he started meeting with Jeff Emory, City Manager, concerning this issue and they worked through it to make it a viable project. He said it will be up for approval at the next City Council meeting.

Commissioner Beam thanked Mr. Atkins for bringing this to a swift conclusion.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the Fire Agreement with the City of Lincolnton.

**NORTH CAROLINA
LINCOLN COUNTY**

THIS AGREEMENT is made and entered into on the ____day of June 2015, for the contract period from _____ to _____, by and between the City of Lincolnton, a Municipal corporation of Lincoln County, North Carolina, by and through its municipal fire department, (collectively hereinafter referred to as the "Department"), and **Lincoln County**, a body corporate and politic pursuant to the laws of the state of North Carolina, hereinafter referred to as the "County."

WITNESSETH:

WHEREAS, North Carolina General Statutes Section 69-25.5 declares that counties may provide for fire and rescue protection in a designated district by contracting with any incorporated nonprofit volunteer or municipal fire department; and

WHEREAS, the County wishes the Department to be a first responder for structural fire and fire alarm calls within the Lincolnton Rural Fire District, as defined hereunder; and

WHEREAS, the County and the Department will strive to meet all applicable National Fire Protection Association ("NFPA") standards;

NOW, THEREFORE, in consideration of the mutual benefits inuring to the parties hereto, and based upon the mutual covenants contained herein and the considerations stated therein, the parties do hereby covenant and agree as follows:

1. Purpose:

The purpose of this Agreement is to provide for reasonably efficient fire service to residents of the County primarily located within the Lincolnton Rural Fire District.

2. Area of Protection:

The Department shall respond to structure fires and fire alarms within the Lincolnton Rural Fire District.

The Lincolnton Rural Fire District shall mean and be defined as that tax district located within Lincoln County more particularly described as follows:

The Lincolnton Rural Fire District is comprised of portions of three county fire districts which will be defined as zones:

Zone A is comprised of portions of the North 321 VFD District;

Zone B is comprised of portions of the Howards Creek VFD District; and

Zone C is comprised of portions of the Union VFD District

All of which are more particularly described by that map attached hereto as Exhibit "A." Each of the volunteer fire departments currently operating with the Lincolnton Rural Fire District will continue to receive the tax money collected from their old fire districts. Each of the volunteer fire departments will continue to respond to structure fires and fire alarms but will be the "second in department" for their Zone area. Each volunteer fire department will continue to run all other calls for each zone area that was theirs, including, but not limited to, calls for; debris removal; debris clearance; traffic control, search and rescue; evacuation; response to motor vehicle accidents; response and functioning at the EMS level as franchised through Lincoln County EMS and Lincoln County; provision of rescue services at the level of certification recognized through NCAREMS; and any other lifesaving and property protection measures as necessary.

3. Insurance Requirements:

- A. Independent Contractor. The Department understands and agrees that, in entering into this Agreement and providing services, it is acting as an independent contractor; none of the Department nor its employees, members, or personnel shall be deemed or construed to be employees of Lincoln County. The Department shall maintain insurance coverage for its personnel and equipment.
- B. Indemnity Agreement. The Department shall indemnify and save harmless Lincoln County from any and all liability and expenses, including attorney's fees, court costs and other costs, incurred by Lincoln County caused by the negligence of the Department, its agents, members, employees and personnel. Lincoln County shall indemnify and save harmless the Department from any and all liability and expenses, including attorney's fees, court costs, and other costs, incurred by the Department caused by the negligence of the County, its agents, members, employees and personnel.

4. Records:

The Chief of the Department shall be responsible for keeping accurate records of all fire calls, membership, training, and any other reports and records as may be required by the County or the State of North Carolina.

5. Reporting:

The County shall provide the Department, and the Department shall complete for each call answered by it, North Carolina Fire Incident Reporting Forms and Casualty Reporting Forms in accordance with N.C.G.S. §58-79-45, which requires that casualty forms shall be completed for all fire related injuries and deaths. Fire incident reports shall be completed on all fire calls and put into the North Carolina Emergency Reporting Data Bank and then sent to the Office of the State Fire Marshal on a yearly bases.

6. Signatories:

- A. The City Manager shall execute this Agreement on behalf of the Department and the Chief of the Department shall attest his signature and affix the Department's Corporate Seal.
- B. The County Manager, acting under the authority of the Board of commissioners, shall execute this Agreement on behalf of the County, and the Clerk of the Board of Commissioners shall attest the County Manager's signature and affix the County Seal.

7. Termination of Prior Agreement:

Upon execution of this Agreement, all prior agreements related to fire services in these area between the parties shall be terminated and become null and void.

8. Designation of Fire Districts:

The provisions of this Agreement shall not alter the fire districts, which have been established within the County and rated for insurance purposes prior to the execution of this Agreement.

9. Term:

This Agreement shall be effective when fully executed by all parties hereto, and shall continue in effect until terminated by any part hereto providing a written 180 day notice to withdraw from this agreement to the non-terminating party.

10. Notices:

Notices required under the provisions of this Agreement shall be made by registered mail, return receipt, to the following parties: If to County: County Manager, if to the Department: Chief of Department.

11. Miscellaneous:

The terms of this Agreement may not be amended, modified, released or waived except in a writing signed by the parties hereto. This Agreement is not transferable or assignable by either party without the written consent of the other party to this Agreement.

IN WITNESS WHEREOF, the Department, pursuant to a resolution duly adopted by its Board of Directors, has caused this instrument to be duly executed in its name by the President of its Board of Directors and attested by its Secretary and Chief, and the County has caused this instrument to be duly executed in its name by the County Manager, pursuant to a resolution duly adopted by the County Board of Commissioners, and attested by its Clerk.

This _____ day of _____, 2015.

Federal Advocate Presentation – Leslie Mozingo: Leslie Mozingo introduced herself as a Washington Advocate and Federal Lobbyist and presented the Board with information on what she does. She gave a Powerpoint Presentation on how things work in Washington with federal funding and said her charge is \$1500 per month per project, with a minimum total cost of \$3000.

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

County Manager's Report: Mr. Atkins said he would be meeting with Jeff Emory tomorrow about Smart Growth Discussions. He said it appears the county health insurance plan will be increasing for next year. He reported that he will start working on the budget soon. Mr. Atkins said Helping Hands did not receive the grant they sought so they will not be moving from the Medical Arts Building.

Commissioner Patton made a plea for dog adoption month and encouraged people to go the shelter and adopt dogs for \$40 this month.

County Commissioners' Report:

County Attorney's Report: Nothing reported.

Vacancies/Appointments:

Commissioner Oakes made a motion to appoint Charles Newman to the Jury Commission. 2 – 3
VOTE: 2 – 3 Ayes: Beam, Oakes
 Noes: Patton, Martin, Mitchem

Commissioner Patton made a motion to appoint Jason Ramsey to the Jury Commission as recommended by Fred Hatley, Clerk of Court.

Commissioner Oakes spoke against appointment Mr. Hatley's son in law to the Jury Commission.

Mr. Deaton said there seem to be conflicting views with new general statutes and he would prefer to investigate further.

Commissioner Patton withdrew his motion until after the Closed Session.

A MOTION by Commissioner Patton to reappoint Jim Watson to the LEDA Board.

Commissioner Oakes said he would like to see more business men on the LEDA Board and not educators.

VOTE: 3 – 2 AYES: Patton, Mitchem, Martin
 NOES: Beam, Oakes

Calendar: Nothing reported.

Other Business: Roby Jetton presented an agreement concerning the clock to be placed on the former Bank of America Building. Robbie Eurey, who has the clock, wants to make sure if the county ever leaves the building, the clock will not be sold.

Mr. Atkins said he could work with Mr. Deaton to make sure this condition will be placed on the deed.

Commissioner Beam said he would like to form a committee or have a workshop concerning employee's vesting rights issue. Commissioners Beam and Patton agreed to meet with Candy Burgin and bring back a report and recommendation to the Board.

Closed Session: UPON MOTION by Commissioner Patton, 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, or to discuss matters relating to military installation closure or realignment.

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

Wesley Deaton gave the Board a recommendation concerning the appointment of Jason Ramsey to the Jury Commission. He said there is a section providing kind of a blanket prohibition, but there is also an exception that could be used if the Board believes the \$300 fee paid for the 2 year period is so insignificant that it would not affect Mr. Hatley's position.

A MOTION by Commissioner Patton to appoint Jason Ramsey to the Jury Commission.

VOTE: 3 – 2 AYES: Patton, Mitchem, Martin
 NOES: Beam, Oakes

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

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners