

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 19, 2007

The Lincoln County Board of County Commissioners met in regular session on March 19, 2007 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 7:25 P.M.

Commissioners Present:

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

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Director of Building and Land Development
Randy Hawkins, Zoning Administrator
Candi Cornwell, Associate Zoning Administrator
Andrew Bryant, Planner
Stacy Yates, Associate Planner
Rick McSwain, Director of Soil and Water
Maggie Dollar, Director of Health
Erma Deen Hoyle, Director of Recreation
Steve Gilbert, Director of Public Works
Barry McKinnon, Engineer for Public Works
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the March 19, 2007 meeting of the Lincoln County Board of Commissioners to order.

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

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

MARCH 19, 2007

7:25 PM Call to Order

1. 7:26 PM Adoption of Agenda

2. 7:27 PM Consent Agenda
 - Revisions to Work First Plan
 - Tax Requests for Refunds
 - February 12 – 18, 2007
 - Tax Requests for Releases
 - January 16 – February 15, 2007
 - Approval of Minutes
 - March 5, 2007
 - Resolution – Approval of the Pathways Local Business Plan
 - Budget Adjustments 70-72
3. 7:30 PM Public Comments
4. 7:45 PM Planning Board Recommendations
 - ZTA #546 - Lincoln County, applicant.
 - ZTA #547 - Lincoln County, applicant.
 - ZTA #548 - Lincoln County, applicant.
 - ZTA #549 - Lincoln County, applicant
 - PCUR #151 - Lowry Hobbs, applicant
5. 8:15 PM Traffic Advisory Committee and Scope of Service Confirmation – Andrew Bryant
6. 8:25 PM Soil Erosion and Sedimentation Fees – Rick McSwain
7. 8:35 PM Request for Funds – Denver Area Business Association Fireworks Festival
8. 8:45 PM Report from Mountain Island Marine Commission – Ron Smith
9. 8:55 PM Proposed Environmental Health Fee Schedule – Maggie Dollar
10. 9:15 PM Recreation: A New Look – Erma Deen Hoyle
11. 9:30 PM RFQ – Space Allocation – Barry McKinnon
12. 9:40 PM Capital Project Reports – Steve Gilbert
13. 9:45 PM Finance Officer's Report
14. 9:50 PM County Manager's Report
15. 9:55 PM County Commissioners' Report

16. 10:00 PM County Attorney's Report
17. 10:05 PM Calendar
18. 10:10 PM Vacancies/Appointments
19. 10:15 PM Other Business

Adjourn

Stan Kiser, County Manager, informed the Board of two changes to the agenda as presented:

- 1) Item 8 – Report from Mountain Island Marine Commission – Ron Smith
Change: Report from Lake Norman Marine Commission – Mac Byrum
- 2) Item 9 – Proposed Environmental Health Fee Schedule – Maggie Dollar
Change: Delete from Agenda

UPON MOTION by Commissioner Klein, the Board voted unanimously to adopt the agenda.

Consent Agenda:

- Revisions to Work First Plan
- Tax Requests for Refunds
- February 12 – 18, 2007

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (February 12, 2007- February 18, 2007)

G.S. #105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Ghazi, Afshin	2006	ELFD/ELSD	0154568	165.02
TOTAL				\$ 165.02

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (FEBRUARY 12, 2007-FEBRUARY 18, 2007)

G.S. #105-381(B) ALL REFUNDS MORE THAN \$100.00 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Abernethy Holdings, LLC	2006	CITY	0161342	161.11

Henderson, David Lee Jr.	2006	ELFD/ELSD	0145647	141.04
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TOTAL \$302.15

- Tax Requests for Releases
- January 16 – February 15, 2007

NAME	YEAR	A/C NO	AMOUNT
Brittain, Ronnie L.	2006	0136685	\$ 107.04
Brown, Troy K.	2006	0105296	\$ 685.20
Burris, Burben Lee Jr.	2006	0197987	\$ 155.51
C. A. Zimmer Inc.	2006	0164126	\$ 117.16
Carolina Conference Assoc.	2006	0197978	\$ 427.83
Davis, Susan Marie	2006	0187317	\$ 220.52
Domangue, Van Charles	2005	0097815	\$ 116.83
Eric D. Tucker Builders	2006	0145902	\$ 226.16
Gatza, Robert David	2006	0153117	\$ 187.32
Harris, Greta Davis	2006	0199583	\$ 163.09
Hash, Joseph Robert	2006	0186306	\$ 149.19
ICX Corp. (Duke Energy)	2006	0191338	\$ 173.87
Issac, Lloyd D. Sr.	2006	07261	\$ 648.57
Martin, Jamie Phillip	2006	0198234	\$ 179.95
Moody, Joey S.	2006	0113018	\$ 117.79
Pruitt, Sandra Canipe	2006	0199376	\$ 177.02
Sparks, Johnny Turner	2006	0199487	\$ 119.57
		TOTAL	\$ 3,972.62

NAME	YEAR	A/C NO	AMOUNT
Abernethy, Ralph L. Jr.	2006	35994	\$ 18,028.67
Angel Outfitters & Dogfood	2004-06	0170161	\$ 224.40
Automotive Clinic	2005	0140061	\$ 174.08
Bordeaux, Derek	2006	0170883	\$ 133.27
Capenter, Jill Marler	2006	31171	\$ 104.57
Dream Builders Investments	2006	0181969	\$ 244.33
Ghazi, Afshin	2005	0154568	\$ 179.43
Nantz, Reva L.	2006	0064780	\$ 407.43
Stilp, Bob H.	2005/06	0142664	\$ 828.00
Sub 2 Shoppe	2006	0193071	\$ 568.43
Times Oil Corp.	2006	Multi	\$ 25,561.52
		TOTAL	\$ 46,454.13

- Approval of Minutes
- March 5, 2007
- Resolution – Approval of the Pathways Local Business Plan
- Budget Adjustments 70-72

No. 70 – Increase in revenue collected to cover cost of county tax service

- No. 71 – To budget \$6,000 to City of Lincoln for July 4th fireworks
No. 72 – To transfer funds from Water fund to Water CIP fund

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the consent agenda.

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

Dennis Morrison, 3429 Al Hager Lane, Iron Station, spoke on behalf of a group of neighbors of Doug and Joanne Hager in regards to concerns they have about the six hundred plus dogs the couple have. He referred to the noise and smell, and played a tape of the previous night's noise from their barking. Mr. Morrison presented a letter to Commissioner Anderson expressing his concerns and plea for help. He stated that Animal Control will not help, nor will the Sheriff's Department, but that Environmental Health is currently looking at, in regards to water quality.

Chairman Anderson thanked Mr. Morrison for coming, and stated that he forwarded the letter to the County Manager to address. He stated that didn't know what he could do yet.

Tom Daniel presented a letter to the Board in regards to the Westport Lakeside Development that outlined his concerns regarding the conditional uses he received, which were prefaced with the condition of obtaining sewer acceptance flow letters from the county. He stated they are reaching a critical stage in this development and have no choice but to continue the grading. Mr. Daniel said he hopes that the project can continue moving forward and they can possibly work toward septic tanks for the larger lots.

Chairman Anderson stated that they Board has allowed fifteen minutes for public comments and has exceeded that time. He declared the public comments section closed.

Planning Board Recommendations:

Zoning Text Amendment #546 – Lincoln County, applicant: The Planning Board voted 9-0 to recommend approval of the revised proposal: No more than one principal structure may be located on the lot unless the lot contains an area for each principal structure that is at least equal to the minimum lot size for the zoning district in which it is located.

Zoning Text Amendment No. 546 – Statement of Consistency and Reasonableness

Case No.: ZTA #546
Applicant: Lincoln County
Parcel ID#: NA
Location: NA

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that Goal 4 of the Land Use Plan calls for permitting a variety of residential uses at appropriate locations and under prescribed conditions.

This proposed amendment is reasonable and in the public interest in that this provision will limit the number of homes on a lot and help ensure that there's sufficient area for septic systems.

UPON MOTION by Commissioner Moore, the Board voted unanimously to concur with the Planning Board's recommendation and Statement of Consistency and Reasonableness.

Zoning Map Amendment #547 – Lincoln County, applicant: The Planning Board voted 8-1 to recommend approval.

Zoning Map Amendment No. 547 – Statement of Consistency and Reasonableness

Case No.: ZMA #547
Applicant: Lincoln County
Parcel ID#: NA
Location: NA

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that one of the institutional recommendations of the Land Use Plan is to increase the planning capacity within the county staff. This amendment would enhance the staff's capability to review zoning proposals by lengthening the application process.

This proposed amendment is reasonable and in the public interest in that this proposal would give staff more time to review zoning applications, prepare reports and compile information, and to provide that information earlier to the Planning Board, Board of Commissioners and the public. It would also allow the public to receive earlier notification of zoning hearings.

UPON MOTION by Commissioner Moore, the Board voted unanimously to concur with the Planning Board's recommendation to approve Zoning Map Amendment No. 547 and the Planning Board's statement of consistency and reasonableness.

Zoning Text Amendment #548 – Lincoln County, applicant: The Planning Board voted 8-1 to recommend approval.

Zoning Text Amendment No. 548 – Statement of Consistency and Reasonableness

Case No.: ZTA #548
Applicant: Lincoln County
Parcel ID#: NA
Location: NA

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that one of the regulatory recommendations of the Land Use Plan is that the county considers the use of a revised corridor district along certain designated roads to control signage. This amendment would serve the same purpose.

This proposed amendment is reasonable and in the public interest in that the number of off-premise advertising signs has continued to increase in Lincoln County, detracting from its scenic landscapes.

Chairman Anderson asked for clarification that this has no impact on existing signs. Mr. Hawkins stated that it is only future signs.

Commissioner Patton stated that he would hope that at some point in the future, the Board would look at a more restrictive policy instead of a total ban.

Commissioner Carlton stated that he has gotten some feedback on this and had long discussions with outdoor advertisers. He stated that he feels like this is a good place to start.

UPON MOTION by Commissioner Klein, the Board voted unanimously to concur with the Planning Board's recommendation and approve Zoning Text Amendment No. 548.

Zoning Text Amendment #549 – Lincoln County, applicant: The Planning Board voted 8-1 to recommend disapproval.

Zoning Text Amendment No. 549 – Statement of Consistency and Reasonableness

Case No.: ZTA #549
Applicant: Lincoln County
Parcel ID#: NA
Location: NA

This proposed amendment is inconsistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that Goal 5 of the Land Use Plan calls for maintaining the residential integrity of existing residential areas by discouraging the encroachment of incompatible non-residential land uses in such areas. Proposed expansions or change of nonconforming uses could potentially encroach into existing residential areas.

This proposed amendment is not reasonable and in the public interest in that the Planning Board is an appropriate body to hear and decide these cases. The Planning Board has done a good job in handling these cases in the past.

UPON MOTION by Commissioner Patton, the Board voted 3-2 (Carlton, Moore against) to concur with the Planning Board's recommendation and deny Zoning Text Amendment No. 549.

Parallel Conditional Use Rezoning #151 - Lowry Hobbs, applicant: The Planning Board voted 9-0 to recommend approval.

Parallel Conditional Use Rezoning No. 151 – Statement of Consistency and Reasonableness

Case No.: PCUR #151
Applicant: Lowry Hobbs
Parcel ID#: 55551, 77528 and 933014
Location: South side of Water Oaks Drive, 1,000 feet easement of Hwy. 16

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that this property is located at the edge of an area designated by the Land Use Plan as a neighborhood center, an area suitable for concentrating primarily non-residential development.

This proposed amendment is reasonable and in the public interest in that this property is adjoined by properties that are zoned business and that contain the marina's storage facilities. Because this is a conditional use rezoning, the property will be developed according to the site plan and the use will be limited to a parking area.

FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES ☒X_____ NO _____
FACTUAL REASON CITED: Proposed parking plan will improve traffic flow in the area; better control of stormwater once completed.
2. The use meets all required conditions and specifications. YES ☒X_____ NO _____
FACTUAL REASON CITED: Meets all required conditions and specifications.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES ☒X_____ NO _____
FACTUAL REASON CITED: Will probably increase the value; surrounding property is used and zoned similarly.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES ☒X_____ NO _____
FACTUAL REASON CITED: Similar use as adjoining properties; is in conformity with Land Use Plan.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to concur with the Planning Board's recommendation, findings of fact, and statement of consistency and reasonableness and approve Parallel Conditional Use Rezoning No. 151.

Traffic Advisory Committee and Scope of Service Confirmation – Andrew Bryant:

Lincoln County is in the process of starting another round of request for qualifications (RFQ) from traffic firms across the state. This was last completed in the spring of 2005

with a committee consisting of county staff, elected officials and NCDOT staff. From that RFQ, three traffic firms were selected by Lincoln County based on their qualifications as firms which were certified to conduct traffic impact analysis studies for rezoning requests. This initial committee agreed that new RFQ's should be solicited every two years and at this time we are looking to form a second committee to analyze a new round of RFQ's.

The purpose of this committee would be to select a set of traffic engineering firms whose services would be retained by Lincoln County based on the completeness and accuracy of their submitted Traffic Impact Analyses.

The committee would meet three times beginning in late April and ending in early June and bring recommendations back to the Board at their June 18 meeting.

UPON MOTION by Commissioner Moore, the Board voted unanimously to continue solicitation of traffic engineering firms for two more years.

Soil Erosion and Sedimentation Fees – Rick McSwain: The Lincoln Soil & Water Conservation District has been working diligently to have the Soil Erosion & Sedimentation program up and running by May 1, 2007. There are several things that need to be approved by the County Commissioners prior to May 1, 2007:

- 1) Approval of fees to be charged for one (1) acre or more of land disturbance plan review and associated inspections. Mr. McSwain is suggesting that the fee be set at \$200 per acre of disturbed land with no cap.
- 2) Express fee for those individuals who want their plan reviewed within five (5) days instead of the thirty (30) days as required by the Soil Erosion & Sedimentation Ordinance. Mr. McSwain suggested that this express fee be an additional \$250 per acre up to eight (8) acres. Example: nine acres disturbed with express fee would total \$3,800.

The following are the suggested fees:

- Plan Review/Inspection - \$200 per acre
- Express Plan Review/Inspection Fee – additional \$250 per acre up to eight acres
- Less than one acre disturbed requiring a building permit - \$50 per application.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the proposed Soil Erosion and Sedimentation Fees as presented.

Request for Funds – Denver Area Business Association Fireworks Festival: Andrew Johnson presented a Request for Funds for DABA Fireworks Festival. Mr. Johnson stated that they would like to have this treated as a budget item. He thanked the Board for their previous support.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the request for Funds for \$6,000 to the Denver Area Business Association Fireworks Festival.

Report from Lake Norman Marine Commission – Mac Byrum: Mac Byrum gave an update on the Lake Norman Marine Commission and maintenance they are doing on the lake.

UPON MOTION by Commissioner Patton, the Board agreed to release funding to the Lake Norman Marine Commission subject to quarterly updates and the Manager will apprise Mr. Ron Smith of this requirement.

Mr. Byrum recommended that Duke Power be an equal funding participant with the counties.

Chairman Anderson asked the County Manager to discuss this with the other County Managers and draft a letter together with them to Duke Power.

Recreation: A New Look – Erma Deen Hoyle: Erma Deen Hoyle presented a PowerPoint detailing Recreation: A New Look.

Mr. Kiser stated that the basement in the Bank of America Building seems to be the best option for office space right now.

Stan Kiser stated that he would like to have the Undesignated Funds approved for use now so that the County could proceed with preparations.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the use of \$187,632 in Undesignated Funds for the start up costs.

Chairman Anderson declared a ten minute recess. Chairman Anderson called the meeting back to order.

RFQ – Space Allocation – Barry McKinnon: Barry McKinnon and Fred Hatley presented information in regards to RFQ – Space Allocation in the Court House.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve issuing the RFQ for space allocation in the Court House.

Capital Project Reports – Steve Gilbert: Steve Gilbert presented the Public Works Capital Project Reports.

Finance Officer's Report: Leon Harmon, Finance Officer, presented the Budget Performance Report for February, 2007.

County Manager's Report: Stan Kiser presented the County Manager's Report.

County Commissioners' Report: There was no County Commissioners Report.

County Attorney's Report: Jeff Taylor updated the Board in regards to the IBT.

Calendar: Chairman Anderson presented the April 2007 calendar. Stan Kiser asked the Board to note the date of April 26 at 3:00 p.m. on their calendars as the first Budget Session.

Vacancies/Appointments: Commissioner Klein presented the following appointments:

BFI Grant Committee – Appoint Todd Burgin

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the appointment of Todd Burgin to the BFI Grant Committee.

BFI Grant Committee – Commissioner Jim Klein

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the appointment of Commissioner Jim Klein to the BFI Grant Committee.

Pathways Board – Commissioner Jim Klein

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the appointment of Commissioner Jim Klein to the Pathways Board.

Commissioner Klein stated that the Soil Erosion and Sedimentation Control Board will be established soon. He asked the Board to help him recruit members for this Board.

Other Business: Commissioner Klein spoke about the erosion and sedimentation issues with the development on Blades Trail and Webbs Road and asked if anything could be done to remedy this.

A MOTION by Commissioner Moore to re-open “Public Comments” to see if anyone else wanted to speak.

VOTE: 2 - 3

AYES: Moore, Klein

NOES: Anderson, Carlton, Patton

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners