

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, FEBRUARY 19, 2007**

The Lincoln County Board of County Commissioners met in regular session on February 19, 2007 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 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  
Steve Gilbert, Director of Public Works  
Leon Harmon, Director of Finance

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

**Invocation – Pastor Scott Mann, New Vision Ministries:** Pastor Scott Mann gave the invocation.

**Pledge of Allegiance:** Chairman Anderson led in the Pledge of Allegiance.

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

**AGENDA**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

**FEBRUARY 19, 2007**

6:30 PM      Call to Order

6:31 PM      Invocation – Pastor Scott Mann  
                  New Vision Ministries

6:34 PM      Pledge of Allegiance

1. 6:35 PM      Adoption of Agenda

2. 6:37 PM      Consent Agenda  
                  - Approval of Minutes  
                  - February 5, 2007

3. 6:40 PM      Public Comments

4. 6:55 PM      Planning Board Recommendations  
  
                  ZTA #543 - Lincoln County, applicant.  
                  ZMA #544 - David Clark Jr., Walter Clark, Allison Clark and  
                  Caroline Clark Morrison, applicants  
                  ZTA #545 - Lincoln County, applicant.  
                  ZTA #546 - Lincoln County, applicant.

5. 7:15 PM      Contract and Scope of Services – White & Smith, LLC – Andrew  
                  Bryant

6. 7:25 PM      Road Naming Public Hearing – Carter Farm Lane

7. 7:35 PM      Child Fatality Review Team Annual Report – Donna Blackburn

8. 7:45 PM      Request for Franchise for Mid-Carolina Transportation and Denver  
                  Fire Department – Ron Rombs

9. 7:55 PM      School Bus Garage Property

10. 8:05 PM      Resolution to Establish Independent Lincoln County Recreation  
                  Department

11. 8:15 PM      Lincoln County Board of Commissioners Legislative Request: To  
                  Request a “Grace” Period for Tax Administration Pending  
                  Revisions to the Lincoln/Gaston County Line

12. 8:25 PM      Appointment of Legislative Liaison to the NCACC

13. 8:35 PM      Bids for Westport Water Line Replacement – Phase 2 – Steve  
                  Gilbert

14. 8:45 PM      Capital Project Reports – Steve Gilbert

15. 8:55 PM Finance Officer's Report
16. 9:05 PM County Manager's Report
17. 9:10 PM County Commissioners' Report
18. 9:15 PM County Attorney's Report
19. 9:20 PM Calendar
20. 9:25 PM Vacancies/Appointments
21. 9:30 PM Other Business
22. 9:35 PM Closed Session – Real Estate Matter

Adjourn

**UPON MOTION** by Commissioner Moore, the Board voted unanimously to adopt the agenda adding item 4a – Report from the Planning Board Chairman.

**Consent Agenda:**

- Approval of Minutes
- February 5, 2007

**UPON MOTION** by Commissioner Klein, 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.

Sylvia Ray asked the Board to refund Magnolia Grove Properties the sum of \$550 and to look into improving the policy and procedures for water-turnoffs. At one of their rental units, Magnolia Grove Properties had to pay for tampering with the lock on the meter and there is no proof that there was a lock that was tampered with.

Robert Wayne Avery stated that he has a copy of the U.S. Census Update. He asked the Board to look at this and to send out a survey to the citizens.

Being no additional speakers, Chairman Anderson declared the Public Comments section closed.

**Planning Board Recommendations:**

**Zoning Text Amendment #543 – Lincoln County, applicant:** The Planning Board voted 6-1 to recommend approval.

Commissioner Moore stated that she is very concerned with what DOT has told her about the traffic access and she is very concerned about this traffic.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to concur with the Planning Board's recommendation.

**Zoning Map Amendment #544 – David Clark Jr., Walter Clark, Allison Clark and Caroline Clark Morrison, applicants:** The Planning Board vote 6-0 to recommend approval.

**UPON MOTION** by Commissioner Klein, the Board voted unanimously to concur with the Planning Board's recommendation and approve Zoning Map Amendment No. 544 – David Clark, Jr., Walter Clark, Allison Clark, and Caroline Clark Morrison, applicants.

**Zoning Text Amendment #545 – Lincoln County, applicant:** The Planning Board voted 6-1 to recommend disapproval.

Commissioner Klein asked if the letter from DABA was put into the record as a part of the Planning Board's discussion. Randy Hawkins said the letter was discussed at the public hearing.

**A MOTION** by Commissioner Moore to not approve the Planning Board's recommendation to disapprove, nor the statement of consistency and reasonableness.

Commissioner Patton stated that there is one good comment on the Statement of Consistency of Reasonableness which says “Businesses wouldn't be allowed to advertise in a similar manner to what's allowed for religious, charitable, civic and fraternal organizations. The limit on the number and size of temporary signs is sufficient to protect the appearance of business areas.” So basically everybody and anybody can put up a sign besides a small business owner, which is inherently unfair.

Commissioner Klein stated that Mr. Patton's point is well-taken, but his sense is that the difference between these that are allowed and the subject of Mrs. Moore's amendment is one group is non-profit and the other is for-profit. He asked County Attorney Taylor if we have the authority over real estate signs. Commissioner Klein's understanding was that it was in the State Statutes that the Board could not regulate these.

Jeff Taylor said he did not know of any statute that governs this. Randy Hawkins stated that in our Zoning Ordinance, they are allowed a certain number of signs.

Commissioner Carlton stated that one of the biggest sources of this problem comes from the real estate industry, so he doesn't think the Board is fairly meeting out any type of justice with this change.

Commissioner Klein stated that DABA's positions was they felt like it might be more effectively handled in an overlay in that corridor as opposed to county-wide.

VOTE: 1 – 4 AYES: Moore

NOES: Patton, Anderson, Klein, Carlton

**UPON MOTION** by Commissioner Patton, the Board voted 4 – 1 (Moore against) to accept the Planning Board's recommendation to disapprove ZTA No. 545 and to accept the Planning Board's Statement of Consistency and Reasonableness as presented.

**Zoning Text Amendment #546 – Lincoln County, applicant:** The Planning Board voted 7-0 to table the proposal for further study.

Randy Hawkins stated that if the Planning Board does not make a recommendation within 30 days, the Board may proceed without one.

**Report from Planning Board:** Jerry Geymont, Chairman of the Planning Board, gave a report to the Board. He said that several workshops have been implemented and the Planning Board will work on the Findings of Fact, will review due diligence and look at DOT.

Chairman Anderson took a moment to thank Boy Scout Troops 83 and 74 for being in attendance tonight.

**Contract and Scope of Services – White & Smith, LLC:** Stacy Yates stated that she is here to answer any questions.

Chairman Anderson said that this is the contract to continue with the Adequate Public Facilities Ordinance.

Commissioner Carlton asked if the timeline has changed. Ms. Yates said it will be 3 to 5 months once the contract is approved.

Commissioner Klein asked if a timeline could be put on the contract. Ms. Yates said that the Board could.

Commissioner Klein stated that he did not see any mention of Jeff Faucette in the contract. Ms. Yates stated that it is not in the contract, but staff has been in contact with Mr. Faucette.

Commissioner Klein asked if Mr. Faucette has a timeline. Kelly Atkins stated that Mr. Faucette does not have a timeline, he will be working with staff to get the word out.

Chairman Anderson stated that the effort by Mr. Faucette is separate and apart from this contract.

Commissioner Klein asked about pipeline information and if it fits into the formula. Kelly Atkins stated that pipeline has already been approved and that Mr. Smith will make a recommendation.

**UPON MOTION** by Commissioner Klein, the Board voted 4 – 1 (Patton against) to approve the Contract and Scope of Services – White & Smith, LLC.

Commissioner Patton expressed concerns about the Board approving this contract and spending more money on an Adequate Public Facilities Ordinance that has yet to be proven legal in the State of North Carolina.

**Road Naming Public Hearing – Carter Farm Lane:** Leroy Buff presented the request for Carter Farm Lane.

Chairman Anderson opened the public hearing concerning the Road Naming Public Hearing – Carter Farm Lane.

Being no speakers, Chairman Anderson declared the public hearing closed.

**UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the road name Carter Farm Lane.

**Child Fatality Review Team Annual Report and Child Protection Team Annual Report:** Mike Futrell presented reports from the Child Fatality Review Team and the Lincoln County Community Child Protection Team. The Child Fatality Team meets quarterly and looks at any deaths related to children age birth to 18. The Child Protection Team meets monthly to review active cases of abuse and neglect with the Department of Social Services.

There were 15 deaths last year, 9 of which were motor vehicle accidents. Safe Teens is a committee created to study the statistics of teens, drinking and driving and speeding.

For the Child Protection Team, statewide problems and concerns are:

- Teen aged pregnancies
- Drug and alcohol abuse
- Domestic violence
- Lack of parenting skills
- Abused children becoming abusive parents
- False reports made to DSS

Problems specific to Lincoln County are:

- Language barriers

- Lack of services and programs offered in Lincoln County that addresses the statewide issues and the ones specific to Lincoln County. Many of the needed services are offered in neighboring counties.

**Request for Franchise for Mid-Carolina Transportation and Denver Fire Department – Ron Rombs:** Ron Rombs presented the Request for Franchise for Mid-Carolina Transportation and Denver Fire Department.

Mr. Rombs stated that the Lincoln County Emergency Medical Services Franchise Ordinance establishes a process that prevents organizations from operating, maintaining, and advertising or otherwise be engaged in the service of emergency and/or non-emergency care and/or transportation of patients within the county of Lincoln unless the person or organization has been granted a franchise for the operation of such service by the county.

The EMS System Plan for Lincoln County is based on continuation of the existing, established system provided by LCEMS and other public safety agencies. The system is fully functional and provides a consistent level of service throughout the county.

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The first request is from Dean & Sara Hastings D/B/A Mid-Carolina Transportation, formerly known as Specialized Transport, requesting a franchise for wheelchair (and ambulatory) transportation services only.

This request is viewed as favorable to the citizens of Lincoln County (primarily nursing home contracts) and is recommended for approval.

Commissioner Moore expressed concerns about how we will be sure there are not issues with insurance again. Mr. Rombs stated that the applicant provided proof of insurance, a twelve month policy that was verified. He stated that they had no grounds based on what he was requesting for denial from a medical perspective. This is strictly wheelchair services and not the level of service he was before.

Stan Kiser stated that he and Ron Rombs will bring before the Board a recommendation to remove the wheelchair provision from the ordinance. If this text amendment was approved, he would not need the Board's approval for this request.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to table this until after the Ordinance update.

The second request is from Denver Fire Department, which requests a franchise for ambulance transportation services for the Denver Fire Department district and additionally request for redefining of the East Lincoln Rescue Squad response area.

In October 2006, Denver Fire Department purchased an ambulance and submitted a letter of intent which indicated that its purpose was to respond an ambulance to calls into Catawba County. The act of providing different levels of services across county lines has created concerns from Dr. Inga Kish, Lincoln County EMS Administration and the staff of the NC Office of Emergency Medical Services.

This request is not recommended by Mr. Rombs or the System's Medical Director, Inga Kish, MD due to the fact that the increase of additional ambulance providers and advanced care providers outside of the purview of Lincoln County Emergency Medical Services would place additional responsibilities on Lincoln County EMS Administration and the Medical Director. It is believed and encouraged that it would be better to utilize our resources to improve our internal operations as opposed to supervising and increasing our responsibilities for outside providers.

Chairman Anderson asked who the NC Office of Emergency Services is. Ron Rombs stated that this is the single state agency responsible for emergency medical services and is an office under the Department of Health and Human Services. The regional office received the request from Denver in October to provide ambulance coverage from the Denver Fire District in their Catawba County Fire District. When this request was received by the State, through Catawba County EMS, there were concerns about an organization based in one county providing services in another and this was not viewed as favorable.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to table this matter and let he and Commissioner Moore meet with all parties involved.

Jay Flynn, Denver Fire Chief, presented a letter from the North Carolina Department of EMS, which says once Denver Volunteer Fire Department has satisfied local franchise ordinance guidelines, their office will be happy to continue the process of inspecting and certifying this vehicle at the described level.

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

**School Bus Garage Property:** Darrell Gettys, Executive Director of Facilities with Lincoln County Schools, came before the Board with an opportunity to purchase approximately three acres located adjacent to and north of our existing school bus garage complex at the intersection of Bethel Church Road and Maiden Highway. Existing property is land locked and over crowded for parking and storage.

Expansion of the bus garage is one of the priorities in the School's Capital Improvement Plan.

The appraised value of this property is \$162,000 and the asking price is \$150,000. The Board of Education has obtained an option on the property for \$50,000 per acre, which is good through February 29, 2006. A Phase 1 Environmental will be done on the property.

**UPON MOTION** by Commissioner Moore, the Board voted unanimously to approve the request for School Bus Garage Property.

**Resolution to Establish Independent Lincoln County Recreation Department:**

Commissioner Patton stated that he feels this is a mistake; governments need to work together to save resources and money. He stated that for the last forty years, Lincolnton has provided most of the recreation for Lincoln County. He stated that he thinks we are better served pooling resources and working together. Commissioner Patton said one City Councilman approached him about the City of Lincolnton getting out of the Recreation business and turning it all over to the County.

Commissioner Moore stated that she has spoken with experts and it is normally done this way.

Commissioner Klein stated that he attended his first Recreation Commission meeting and the sentiment of that group was that a county like Lincoln County probably does not need two recreation departments and he agrees with that fundamentally. He asked where the seed came from that planted this resolution.

Commissioner Moore stated that the problem over the years has been that the city had recreation and the county did not. She stated that it is not working.

**A MOTION** by Commissioner Moore, the Board voted to approve the Resolution to Establish Independent Lincoln County Recreation Department.

**VOTE: 3 – 2**

**AYES: Anderson, Moore, Carlton**

**NOES: Patton, Klein**

**Lincoln County Board of Commissioners Legislative Request: To Request a “Grace” Period for Tax Administration Pending Revisions to the Lincoln/Gaston County Line:** **UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Lincoln County Board of Commissioners Legislative Request: To Request a “Grace” Period for Tax Administration Pending Revisions to the Lincoln/Gaston County Line.

RESOLUTION TITLE: LINCOLN COUNTY BOARD OF COMMISSIONERS LEGISLATIVE REQUEST: TO REQUEST A “GRACE” PERIOD FOR TAX ADMINISTRATION PENDING REVISIONS TO THE LINCOLN/GASTON COUNTY LINE

WHEREAS, the Lincoln/Gaston County line was established originally in 1846, and subsequently was defined by Chapter 596 of the Sessions Laws of the 1963 General Assembly; and,

WHEREAS, the respective County tax departments have, until recent advances in technology, been unable to accurately define the location of the border on individual tax parcels, which has resulted in residents being incorrectly designated as living in Lincoln or Gaston County; and,

WHEREAS, the respective Counties, due to recent advances in technology, are able to accurately locate the County boundary on tax parcels, resulting in adjustments in the locations of residents from one County to the other County, and;

WHEREAS, the Commissioners of each County prefer to continue treating tax parcels in accordance with past practice pending action to recommend adjustments in the boundary line to the General Assembly, and each Board prefers to do so without adverse consequences to the members of each Board.

NOW, THEREFORE, BE IT RESOLVED by the Lincoln County Board of Commissioners that the Lincoln County Delegation to the North Carolina General Assembly is requested to support legislation to provide a "grace" period allowing Lincoln County to continue past practices for tax administration until the Board can present a proposed boundary line for approval by the General Assembly.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Local Legislative Delegation to the North Carolina General Assembly, and the North Carolina Association of County Commissioners.

This 19<sup>th</sup> day of February, 2007.

Lincoln County

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Thomas R. Anderson, P. E., Chairman  
Board of Commissioners

ATTEST:

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Amy S. Atkins, Clerk to the Board of Commissioners

**Appointment of Legislative Liaison to the NCACC:** Commissioner Moore agreed to be the legislative liaison.

**Bids for Westport Water Line Replacement – Phase 2 – Steve Gilbert:** Steve Gilbert presented the Bids for Westport Water Line Replacement – Phase 2.

On February 6, 2007, sealed bids were opened for Phase 2 of the Westport Water Line Replacement project. This project will install new water lines in place of the old lines that have caused problems for some time. Bids were received as shown:

<b>Bidder</b>	<b>Alternate 1</b>	<b>Alternate 2</b>
Hickory Sand Co. Inc.	\$388,653.00	\$1,046,073.00
Gilbert Engineering Co, Inc.	\$414,232.10	\$ 536,430.10

Trans-State Construction Co.	\$519,770.00	\$ 657,354.00
Buckeye Construction Co.	\$573,671.80	\$ 645,423.40
Sealand Contractors	\$582,203.00	\$ 663,133.00

This project will complete the water line replacement in the Westport community of Lakeshore Road South, Miners Cove Court, Placid Court, and Island View Court. Alternate bids were taken for installation by conventional open-trench construction and for installation by directional boring. The recommendation at this time is to award the contract for the project to the low bidder for the conventional construction method, Hickory Sand Co, Inc., in the amount of \$388,653.00. Funds for this project are allocated in this year's budget. Work will commence upon approval of contract documents and is expected to be complete by fall of this year.

**UPON MOTION** by Commissioner Moore, the Board voted unanimously to approve the Public Works Department's recommendation to award the Bid for Westport Water Line Replacement – Phase 2 to Hickory Sand Co, Inc. for the amount of \$388,653.00.

**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 January, 2007.

**County Manager's Report:** Stan Kiser presented the County Manager's Report. He presented a request from the Sheriff's Office for Jail Inmate Funds.

Commissioner Klein said he would like to hold these items until budget deliberations.

Commissioner Moore asked for Mr. Kiser to check on the transport van to see if it would cut down on Worker's Comp claims.

**County Commissioners' Report:** Commissioner Moore stated that Pathways has had to come up with a new business plan. She staid Tony Carpenter is at the meeting tonight and she would like to know how the Board would like this presented.

By consensus the Board asked Commissioner Moore to give each Commissioner a written copy.

Commissioner Moore stated that she has asked the Planning Board to check into the building that is covered in kudzu and falling down at Unity Church Road and Highway 16.

**County Attorney's Report:** Jeff Taylor updated the Board on the Interbasin Transfer. Mr. Taylor stated that he received a telephone call from the Sheriff, who said that he would like to keep the East Lincoln Office where it is, so the 800 square feet would be sufficient for his needs at Walmart as long as the space has an outside door. He stated that he would be in contact with Walmart about this.

Jeff Taylor stated that he has been working with Wayne Godfrey concerning the Rhyne Mills condemnation.

**Calendar:** Chairman Anderson presented the March 2007 calendar.

**Vacancies/Appointments:** Commissioner Klein stated that there are no appointments at this time.

**Other Business:**

**Closed Session – Real Estate Matter:** **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to go into closed session to establish and instruct county staff and agents concerning the position to be taken by or on behalf of Lincoln County in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to Section 143-318.11(a)(5) of the North Carolina General Statutes.

The Board returned to open session.

Chairman Anderson announced that during closed session, the Board received information concerning the acquisition of real property by purchase, option, exchange, or lease pursuant to Section 143-318.11(a)(5) of the North Carolina General Statutes.

**UPON MOTION** by Commissioner Moore, the Board voted unanimously to adopt a Resolution in connection with the negotiations attendant to this particular piece of real estate as modified.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Thomas R. Anderson, PE, Chairman  
Board of Commissioners