

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JANUARY 8, 2007

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on January 8, 2007, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

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

Planning Board Members Present:

Jerry Geymont, Chairman
John Pagel, Vice Chairman
Terry Whitener, Secretary
Larry Craig
George Arena
Clyde Brown
Darrell Harkey
Harold Howard Jr.
Louis McConnell

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, Associate Planner
Stacy Yates, Associate Planner
Amy Brown, Clerk to the Planning Board
Ron Rombs, Director of Emergency Management Services
Sheriff Tim L. Daugherty

Call to Order: Chairman Anderson called the January 8, 2007 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Commissioner Moore gave the Invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Moore, the Board voted unanimously to adopt the agenda with Commissioner Patton adding one item to other business and Commissioner Klein adding 2 items to other business.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

JANUARY 8, 2007

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|----|---------|---|
| | 6:30 PM | Call to Order |
| | 6:31 PM | Invocation – Commissioner Moore |
| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:34 PM | Consent Agenda |
| | | - Approval of Minutes |
| | | - December 18, 2006 |
| | | - Tax Requests for Releases – More than \$100 |
| | | - November 16 – December 15, 2006 |
| | | - Tax Requests for Refunds – More than \$100 |
| | | - December 11 – 17, 2006 |
| | | - Budget Adjustment No. 48 – 50 |
| | | - Sponsored Group Status |
| | | - Chamber of Commerce |
| 3. | 6:35 PM | Zoning Public Hearings – Randy Hawkins |

PCUR #89A The Denver Group LLC, applicant (Parcel ID# 32630, 78190 and 84462) A request to amend a conditional use district that was approved in 2003, permitting a P-MU (Planned Mixed Use) development. The approved plan for the development calls for buildings and parking areas in the commercial and townhome sections to be set back 100 feet from the edge of the right of the roads bordering the perimeter of the district. The applicant is requesting to change the plan to allow a 30-foot setback for parking areas in the commercial section and for buildings and parking areas in the townhome section, with landscaping in the 30-foot setback. The request involves 41 acres

located on the north side of Hwy. 73 and west side of Club Drive in Catawba Springs Township.

PCUR #150 Tim Norman, applicant (Parcel ID# 31240) A request to rezone a 1.1-acre parcel from R-T (Transitional Residential) to CU B-G (Conditional Use General Business) to permit a tire store (auto repair garage). The property is located on the east side of Pilot Knob Road about 700 feet south of Hagers Ferry Road in Catawba Springs Township.

WSCUP #10 Westport Lakeside No. 2 LLC, applicant (Parcel ID# 86029) A request for a watershed conditional use permit to allow the use of the high-density option in the WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 28 acres for townhomes. The high-density option would allow the development to have a built-upon surface area of up to 50 percent of the acreage with the use of engineered stormwater controls. The property is located on the east side of Fairfield Forest Road about 1,000 feet east of Hwy. 16 in Catawba Springs Township.

4. 7:15 PM Request for Purchase – Ron Rombs
5. 7:25 PM Request from Sheriff Daugherty
6. 7:35 PM Other Business

Recess to January 16, 2007 at 6:30 p.m. at the Resource Center in Dallas

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

- Approval of Minutes
 - December 18, 2006
- Tax Requests for Releases – More than \$100
 - November 16 – December 15, 2006

NAME	YEAR	A/C NO	AMOUNT
Bangs, Mark William	2006	0111211	\$ 107.91
Bingham, Joseph Keith	2006	0161546	\$ 178.84
Boshell, Deborah Ann	2005	0190128	\$ 118.88
Carolina Cross Connection	2006	0074605	\$ 183.11
Carpenter, Malcolm Moore Jr.	2006	0137493	\$ 437.40
Dawson, Robert H.	2006	0145441	\$ 101.16
Flores, Gabriel	2006	0112036	\$ 113.95
Hanks, Charles Benjamin IV	2005/06	0116859	\$ 203.35

Hoke, Clyde Rockwell	2006	0198316	\$ 149.18
Johnson, Henry Lee	2006	0196917	\$ 207.91
Livingston, Henry Loran	2006	0198134	\$ 223.70
May, Adrian Arrowood	2005	0190269	\$ 242.90
Milligan, Bruce	2006	0180280	\$ 441.32
Payseur, Shirley Carpenter	2006	0197910	\$ 237.28
Roseboro, Chadwick Walter	2005	0168908	\$ 161.81
Shrum, Byron Garland	2006	14507	\$ 105.13
Smith, Brian Christopher	2006	0198273	\$ 112.32
Thornton, Gary Polk	2006	0197902	\$ 145.63
Williams, Dorothy Barnwell	2006	0196999	\$ 111.28
Wilson, Freddie	2006	0137902	\$ 126.73
Woodside, Krista Lea	2006	0138883	\$ 112.15
		TOTAL	\$ 3,821.94

NAME	YEAR	A/C NO	AMOUNT
Bingham, James H.	2006	43389	\$ 244.14
Branch Banking & Trust	2004/05	0114185	\$ 386.71
Duncan Auto Repair	2006	0133055	\$ 321.75
Dycus, Jonathan	2006	36697	\$ 292.73
Fordway Services of NC Inc.	2006	0198346	\$ 387.05
Holliday, Crystal McAbee	2006	0182209	\$ 156.09
Keever, Randy	2006	18257	\$ 2,836.71
Lankford, Amber Lynn	2006	0194894	\$ 405.85
Parker, Hank	2006	0098676	\$ 509.32
Penwarden Custom Builders	2006	0174410	\$ 775.36
Templeton, Mark B.	2006	0197547	\$ 251.69
Threads in Motion Int.	2002-06	0155360	\$ 646.80
		TOTAL	\$ 7,214.20

- Tax Requests for Refunds – More than \$100

- December 11 – 17, 2006

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (DECEMBER 11, 2006-DECEMBER 17, 2006)

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

NAME	YEAR	DIST	A/C#	AMOUNT
Jobin, Serge J.	2006	UFD	0074580	110.26
Silman, Michael W.	2006	BCFD	0071752	101.84

TOTAL \$212.10

- Budget Adjustment No. 48 – 50

Budget Adjustment No. 48 to allocate proceeds from land sale in Industrial Park to EDA capital projects account

Budget Adjustment No. 49 to transfer \$1,000,000 from East Lincoln Sewer District operating Fund 62 to Sewer District Capital Improvement Fund for current and future projects.

Budget Adjustment No. 50 to increase expenditure and revenue line items for additional allocations of funds for Crisis Intervention Program (no county funds involved).l

Sponsored Group Status

- Chamber of Commerce

New Business/Advertised Public Hearings:

Chairman Anderson announced that this was the date, Monday, January 8, 2007 and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on December 29, 2006 and January 5, 2007.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, January 8, 2007, at 6:30 p.m. to consider the following matters:

PCUR #89A The Denver Group LLC, applicant (Parcel ID# 32630, 78190 and 84462) A request to amend a conditional use district that was approved in 2003, permitting a P-MU (Planned Mixed Use) development. The approved plan for the development calls for buildings and parking areas in the commercial and townhome sections to be set back 100 feet from the edge of the right of the roads bordering the perimeter of the district. The applicant is requesting to change the plan to allow a 30-foot setback for parking areas in the commercial section and for buildings and parking areas in the townhome section, with landscaping in the 30-foot setback. The request involves 41 acres located on the north side of Hwy. 73 and west side of Club Drive in Catawba Springs Township.

PCUR #150 Tim Norman, applicant (Parcel ID# 31240) A request to rezone a 1.1-acre parcel from R-T (Transitional Residential) to CU B-G (Conditional Use General Business) to permit a tire store (auto repair garage). The property is located on the east side of Pilot Knob Road about 700 feet south of Hagers Ferry Road in Catawba Springs Township.

WSCUP #10 Westport Lakeside No. 2 LLC, applicant (Parcel ID# 86029) A request for a watershed conditional use permit to allow the use of the high-density option in the WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 28 acres for townhomes. The high-density option would allow the development to have a built-upon surface

area of up to 50 percent of the acreage with the use of engineered stormwater controls. The property is located on the east side of Fairfield Forest Road about 1,000 feet east of Hwy. 16 in Catawba Springs Township.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the James W. Warren Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Chairman Anderson asked that ex parte discussions be revealed at the time cases are discussed.

Parallel Conditional Use Request No. 150 – Tim Norman, applicant: A request to rezone a 1.1-acre parcel from R-T (Transitional Residential) to CU B-G (Conditional Use General Business) to permit a tire shop. (Under the Zoning Ordinance, the proposed use would be classified as an auto repair garage which is defined as a business primarily involving the maintenance or servicing of vehicles.) Because the applicant has opted to apply for a conditional use rezoning, a site plan is included as part of the application and would be binding if the rezoning is approved.

The property is located on the east side of Pilot Knob Road about 700 feet south of Hagers Ferry Road. It is adjoined on the sides and rear by property zoned R-T. The properties on the opposite side of Pilot Knob Road are zoned B-N (Neighborhood Business). County water and sewer are available at this location. This property is located in an area designated by the Lincoln County Land Use Plan as a neighborhood center, suitable for concentrating primarily non-residential development.

That neighborhood center designation extends from the intersection of Pilot Knob Road and Hager's Ferry Road about .3 of a mile down Pilot Knob Road. This property would fall in that area. One of the goals of the Land Use Plan that may be pertinent in this case, 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.

Candi Cornwell presented letters received on the case for the Board's information. The letters were from Judith Farris, Bob Hecht, and Renee' and Joe Duckworth.

Randy Hawkins pointed out on the map where The Sign Shop, Safari Miles, and the convenience store are.

The Board discussed the reasoning for applying for a parallel conditional use rezoning instead of a straight rezoning.

Commissioner Klein asked Mr. Hawkins what his recommendation would be.

Mr. Hawkins stated that this is an area recommended as one of the most suitable for concentrating primarily non-residential development. In the description of a

neighborhood center, in fill development and this is an older house. He stated that he feels this is consistent with the Land Use Plan.

Mr. Hawkins stated that the applicant has made some provisions on the site plan for a privacy fence on the side of the property that adjoins the property to the right, recognizing that this property should be buffered more than the other side. Tire stores are not always incompatible with residential areas, right behind Clark Tire in Lincolnton is a residential area. He stated that there it is continually said that there is too much traffic on Hwy. 16 and he feels it is good to branch off on some side roads.

Commissioner Moore stated that this it is residential on this side of the road, but is commercial across the road. She asked if this would be considered spot zoning since this is between two residential houses.

Randy Hawkins stated that there are two things that make this not spot zoning. It adjoins property across the street that is zoned business and the Land Use Plan designates this area suitable for commercial development.

Commissioner Moore stated that there is a conflicting goal in the Land Use Plan, goal 5, which maintains the integrity of residential areas.

Commissioner Klein stated that this would be the first non-residential transitional tract in the area. He asked if this would make future requests easier.

Mr. Hawkins stated that based on precedent, he would think it would make it easier for future requests.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Request No. 150 – Tim Norman, applicant.

David Dupree stated that he worked with the applicant, and tried to look into a couple things and worked with Randy with properties that make sense. He stated that they immediately went to the Land Use Plan to try and find the right areas and called DOT, who said they would not have any impact on the cards passing on this road. He said this piece of property sold for a little over \$100,000 a year ago and is now for sale as commercial for over \$200,000. He stated that they talked with neighbors on both sides. There is a convenience store, Attorney's office, and a large metal building that holds Sign Here across the road. He stated that they went to a recognized Land Planner, Mitch Latham, and tried to identify what it would take to be a good neighbor. They are planning to put a fence up and above and beyond plantings. He stated that this is certainly a lot more conducive as good neighbors than what is already on the street.

Chairman Anderson asked Randy Hawkins if we have the appropriate paperwork since the applicant is not the owner of the property. Mr. Hawkins said that he does have this paperwork.

Commissioner Klein asked if Mr. Dupree spoke with the neighbors. Mr. Dupree stated that he spoke with the property owner that owns the land beside and behind this piece, this neighbor wrote a letter in support of this request.

John Pagel asked what the building would look like.

Tim Norman, applicant, stated that this will be a metal building with a brick and glass front

Judith Farris stated that she is opposed to rezoning of this piece of property. She presented letters of opposition from two family members who could not be here tonight. Ms. Farris said that this property located between 2 homes and joins a third home. This parcel is 30 feet from the end of her home. She said this type of business would create noise and traffic that would be a nuisance in this area. She spoke concerning the danger to pets and children. Ms. Farris stated that once a business is in the area, it opens the door for more.

Commissioner Moore asked Mr. Dupree for evidence to support the fact that putting this business here will not hurt the surrounding area and integrity of homes.

Mr. Dupree stated that from their history, the house has gone from a home under \$100,000 to 200,000 plus.

Chairman Anderson stated that he did not see in the package of information any professional appraisal data which would support a decision as to whether or not this rezoning would adversely impact the surrounding pieces of property.

Mr. Dupree stated that they do not have a professional appraisal.

Connie Zmijewski stated that she would like to raise one issue on this zoning matter, we all recognize that Walmart is putting in a tire center that will take a lot of the community's business. Her concern that there will be another empty metal building in the area. She stated that Walmart will have a huge tire center and brining in a small one is an unknown.

James Gibson stated that he has lived in the area almost 41 years and has seen a lot of development. He stated that across the street is Safari Miles and more property that is already zoned for business. He stated that this is not a prime spot for business, but the property across the road is more convenient for customers. He stated that this property is probably a lot cheaper and that is why they are not buying property on Hwy. 16. Mr. Gibson asked if it was morally right to put this business right next to these homes, with residents that have been there for years.

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

Parallel Water Shed Conditional Use Request No. 10 – Westport Lakeside No. 2 LLC, applicant: The applicant is requesting a conditional use permit under the Lincoln County

Watershed Protection Ordinance to allow the use of high-density option in the WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is planning to develop 28 acres for townhomes as part of an approved Planned Mixed Use (P-MU) district. The high-density option would allow the development to have a built-upon surface area of up to 50 percent of the acreage with the use of engineered stormwater controls. (Under the low-density option, multi-family developments are limited to a built-upon area of 24 percent.)

The property is located on the east side of Fairfield Forest Road about 1,000 feet east of Hwy. 16. It is adjoined by property zoned RL-14, R-SF and B-N. County water and sewer are available at this location. Goal 4 of the Lincoln County Land Use Plan states: "Multi-family and higher density residential development.....will be encouraged at a density range of three to seven units per gross acre and will be guided to locations in which adequate water and wastewater disposal services and sufficient road system are available."

Mr. Hawkins stated that in applying for this conditional use permit, the applicant submitted some calculations to determine what the volume of stormwater not only generated by this property, but also coming onto this property from off-site, would need to be handled. Those calculations and the construction plans for the stormwater structures were submitted to the BALD office. BALD hired an independent engineering firm to review those plans and received some comments back from that review, provided them to the applicant's engineer, and the applicant's engineer addressed those comments and the final plans were submitted based on that. Those plans comply with all the conditions of the ordinance. The ordinance specifies that the stormwater structures must be designed to control the runoff from the first inch of rainfall and to remove 85% of the suspended solids. The applicant has provided an estimate of the cost to construct the structures, which is \$32,900 and in compliance has submitted a letter of credit payable to Lincoln County in an amount of 1.25 times that cost to guarantee that those structures are built. There is also an agreement that will be executed between the county and the applicant, stating that the applicant and his successors will follow the maintenance plan to guarantee that these stormwater structures are maintained.

Mr. Hawkins stated that the Board has a site plan of the proposed townhomes, a grading plan, and the stormwater plans.

Chairman Anderson asked Mr. Hawkins at such time as the developer has completed the development, who becomes responsible for the execution of the maintenance plan. Mr. Hawkins stated that if it is turned over to a homeowner's association, it will be responsible. He said that BALD is required to conduct annual inspections of the stormwater structures and to forward any comments from that inspection to the owner of the structures, who will be required to make those necessary provisions to maintain it.

Commissioner Patton asked what would happen if they didn't make those corrections. Mr. Hawkins stated that there could be civil penalties and court action.

Commissioner Carlton stated that looking at the plan, all the traffic empties onto one road. He asked if this will be in phases or a build-out. Mr. Hawkins stated that it will be in phases. Commissioner Carlton asked how many units there will be.

Chairman Anderson stated that the plan is for 124 townhouses, 52 garages, and 229 parking spaces at the 50% built upon area, which is shown on the plan.

Commissioner Patton asked if the Fire Marshal signed off on one entrance. Randy Hawkins stated that there will be another way in, from Golf Course Drive South.

George Arena asked about the overflow for the drainage. Mr. Hawkins stated that the water from the ponds would flow onto the golf course property. He stated that any impact, which would probably be less under this option, would be on the golf course, which is owned by the applicant.

Chairman Anderson stated that 124 townhouses are shown on the drawings, if they were restricted to the 24% built upon area, or the low density option, how much that would reduce from what is shown on the drawing. Randy Hawkins stated that it would at least be cut by more than 1/3. He stated that there would be 75 to 80 units at the most.

Commissioner Klein stated that Randy Hawkins sent him some information concerning the history of requests from this developer. He stated that his concern is that the Board is being spoon fed information.

Randy Hawkins reviewed the cases that have been approved for this applicant.

Commissioner Klein asked for the level of service at the intersection of Fairfield Forest and Highway 16. He asked that this be explored and brought back to the Board.

Commissioner Moore asked the cumulative effect of all the houses and townhomes approved. Commissioner Klein stated that one resident spoke at a recent meeting, saying there are more planned units in Westport now than were originally built there.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Request No. 10 – Westport Lakeside No. 2 LLC, applicant.

Tom Daniel, applicant, stated that it was not their intent to keep bringing things back before the Board, the property changed hands several times. He stated that 124 townhomes, 74 patio condominiums, and 52 single family traditional homes for a total of 250 units on 92 acres. He stated that they were also approved for properties on the northern side of Fairfield Forest and the golf course, which provides for an additional ingress, egress to Highway 16. Those properties have 120 patio condominiums and 69 single family homes. Build out will be 8 to 10 years.

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

The Planning Board recessed their meeting on the 2nd floor balcony.
Chairman Anderson called for a 10-minute recess and called the meeting back to order.

Request for Purchase – Ron Rombs: Ron Rombs stated that the Board has approved money in the capital improvement account for the purchase of three Type II E-Series vans for FY 2006-2007.

The bids were obtained from three manufacturers for the same specification unit:

Northwestern Emergency Vehicles (\$48,301)
Southeastern Specialty Vehicles (\$56,590)
Wheeled Coach of NC, the state contract vendor (\$61,913)

Mr. Rombs requested a purchase order be issued to Northwestern Emergency Vehicles for the purchase of one ambulance. The total purchase is \$48,301. The funds for the purchase of this apparatus are included in the CIP budget; a total of \$125,581 was budgeted.

This ambulance will be purchased from Northwestern Emergency Vehicles located in West Jefferson, North Carolina. All ambulances purchased in the past six years were purchased from them and are basically identical. Northwestern is the only manufacturer that is based within the state of North Carolina and offers superior service.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the bid from Northwestern Emergency Vehicles for the purchase of one ambulance at the cost of \$48,301.

Request from Sheriff Daugherty: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to bring the request back before the Board.

Chairman Anderson stated that there was a motion on the floor to reject the request by the sheriff.

A MOTION by Commissioner Moore to reject the request from the Sheriff.

Commissioner Carlton asked Sheriff Daugherty if a hiring process was followed, if he posted the job, took applications, and found his daughter to be the most qualified applicant.

Sheriff Daugherty stated that when he assumed the office, he received a deluge of applications and resumes for every position from administrative to Chief Deputy. He reviewed these applications and made the decision that his daughter was qualified for this position.

Chairman Anderson asked the Sheriff if he would like to say anything.

Sheriff Daugherty stated that his daughter is here, she's 24 years old and can answer for herself.

Commissioner Klein stated that it has been his experience that professional family relationships this close are not successful over the long haul. He stated that it injects some tension that otherwise won't be there.

Sheriff Daugherty stated that his daughter will not be reporting to him as her direct supervisor and there will not be much contact between them.

Commissioner Carlton stated that the biggest obstacle here is the perception to the residents of the county. He stated that these issues have been there in the past and Sheriff Daugherty even questioned having relatives working for the Sheriff. He said that our voters see this as nepotism and it is something that does not sit well with the population or the Board of Commissioners as far as he is concerned. He stated that people were looking for a new beginning and are now saying here we go again.

Sheriff Daugherty stated that nepotism was a law that was intended to prevent the sheriff from coming in, cleaning out the administration, and hiring his friends and family. He said that his daughter's employment would probably only be on a temporary basis, until she completes her degree. He stated that he had no objection to the former Sheriff hiring her brother, his objection was his salary and lack of qualifications at the time he was employed.

VOTE: Unanimously approved.

Other Business:

Commissioner Patton stated that a request has come to him from Gene Sain asking for his service weapon. He retired from the Sheriff's Department.

UPON MOTION by Commissioner Patton, the Board voted 4 - 1 (Klein against) to retire Gene Sain's service weapon and present it to him.

By consensus, the Board agreed to add the School Bus Garage to the last meeting in February.

Chairman Anderson stated that he received a letter from Jonathan Rhyne concerning the condemned property. He stated that there will be a meeting with counsel on Thursday.

Chairman Klein stated that he recommends asking Building and Land Development staff to bring a formal recommendation at the Board of Commissioner and Planning Board public hearing meeting. Chairman Anderson suggested asking the County Manager to instruct the BALD staff to bring a zoning text amendment at their earliest opportunity.

Commissioner Klein spoke concerning 3 sites he visited after the rains over the weekend. He stated that it doesn't seem these measures taken are terribly effective. He asked if there was a group within the county that could help with this.

Chairman Anderson stated that there is a Sedimentation and Erosion Control before the state right now. Once approved, it will come back to this Board for adoption.

Commissioner Patton stated that he met with Commissioner Carlton and

Recess: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to recess to January 16, 2007 at 6:30 p.m. at the Senior Resource Center in Dallas.

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners