

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, APRIL 1, 2019

The Lincoln County Board of County Commissioners met on April 1, 2019, at the Administrative Office, Commissioners Room, 353 N. Generals Blvd., Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chair
Richard Permenter, Vice Chair
Milton Sigmon
Bud Cesena
Anita McCall

Others Present:

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

Call to Order: Chairman Mitchem called the April 1, 2019 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.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, April 1, 2019
6:30 PM

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

Call to Order - Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda with the addition of 6a - Environmental Health Discussion with Lincoln County Homebuilders Association
2. Consent Agenda
 - Approval of Minutes - March 18, 2019
 - VTS Refunds
3. **PUBLIC HEARING**

Quasi-Judicial Case

~~CUP #400 Timothy Covington, applicant (Parcel ID# 31742) A request for a conditional use permit to allow a detached garage to be located in front of a house on a lot adjacent to Lake Norman. The 0.8 acre lot is located at 8078 McConnell Road in Catawba Springs Township.~~

Legislative Case

ZMA #659 Damon Lusk, applicant (Parcel ID# 101007) A request to rezone 0.9 acres from B-N (Neighborhood Business) to I-G (General Industrial). The property, part of a 1.0-acre parcel, is located on the east side of N.C. 16 Business about 700 feet north of the northern end of Denver Industrial Park Road in Catawba Springs Township.

4. Public Hearing - Proposed Industrial Development Incentive Grant for Existing Industry - John Dancoff
5. ~~Performance Guarantee for Kinsley Subdivision Phase 1 - Jeremiah Combs~~
6. Performance Guarantee for Westshore Subdivision - Jeremiah Combs
- 6a. Environmental Health Discussion with Lincoln County Homebuilders Association
7. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
8. Transportation of Lincoln County Drug and Alcohol Policy Revisions - Ron Rombs
9. Annual Adoption of Transportation Lincoln County Safety and Security Plan - Ron Rombs
10. Adoption of a Resolution Approving an Installment Financing Contract with Regions Capital Advantage and Authorizing Execution and Delivery of Documents in Connection Therewith - Deanna Rios
11. Approval of Audit Contract from Martin Starnes for FY 20 for \$74,500 and also tentative approval for FY 21 and FY 22 - Deanna Rios
12. Budget Ordinance Amendment #6 - Deanna Rios
13. Grant Project Ordinance #4 - Deanna Rios
14. Capital Project Ordinance Amendment #4 - Deanna Rios
15. Other Business
16. Closed Session - Pursuant to NCGS 143-318.11(a)(5) to establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property

Adjourn

UPON MOTION by Commissioner Cesena, the Board voted unanimously to adopt the agenda as presented, removing Item 5 and adding Item 6a – Environmental Health Discussion with Lincoln County Homebuilders Association.

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

Consent Agenda

- Approval of Minutes - March 18, 2019
- VTS Refunds

Zoning Public Hearings: Randy Hawkins presented the following:

ZMA #659 – Damon Lusk, applicant:

Request

The applicant is requesting the rezoning of 0.89 acre from B-N (Neighborhood Business) to I-G (General Industrial). The property is part of a 1.0-acre parcel, the remainder of which is zoned I-G.

Site Area & Description

The subject property is located on the east side of N.C. 16 Business about 700 feet north of the northern end of Denver Industrial Park Road. It is adjoined by property zoned B-N and I-G. The subject property is located in the Eastern Lincoln Development District (ELDD). Land uses in this area included industrial, business and residential. This property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center.

Additional Information

Permitted uses

Under current B-N zoning and ELDD overlay district: retail sales, restaurant, offices, personal services, etc., with a maximum gross floor area of 10,000 square feet.

Under proposed I-G zoning and ELDD overlay district: Offices, personal services, race team shop, machine shop and certain manufacturing uses are permitted by right. Other uses, including supply house, contractor's office and cabinet shop, are conditional uses in the ELDD.

Adjoining zoning and uses

East: zoned I-G, machining

South: zoned B-N, office/storage.

West (opposite side of N.C. 16 Business): zoned B-N, residential use and undeveloped property.

North: zoned B-N and I-G, undeveloped property.

Staff's Recommendation

Staff recommends approval of the rezoning request.

Randy Hawkins presented a letter from Damon Lusk, who was unable to attend the meeting tonight, asking for the Board's support.

Chairman Mitchem opened the public hearing for ZMA #659 – Damon Lusk, applicant

Lee Killian, 4153 Hwy 16, Denver, said he has been there his whole life and is selling the proposed property to Mr. Lusk. He said the Lusk's are good people and have built the prettiest buildings in Denver. He said with the Board's permission, they will build more.

Being no additional speakers, Chairman Mitchem closed the public hearing.

The Planning Board moved their meeting to the Planning Board meeting room.

Public Hearing – Proposed Industrial Development Incentive Grant for Existing Industry: John Dancoff presented the following information concerning the proposed Industrial Development Incentive Grant for Race City Steel.

Chairman Mitchem opened the public hearing. Being no speakers, Chairman Mitchem closed the public hearing.

UPON MOTION by Commissioner Permenter, the Board voted unanimously to approve the Resolution to Adopt Economic Incentive Grant Agreement with Race City Steel.

**RESOLUTION TO ADOPT ECONOMIC
INCENTIVE GRANT AGREEMENT WITH
RACE CITY STEEL**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, Race City Steel, have developed plans for expansion of their manufacturing equipment in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS
FOLLOWS:**

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, Race City Steel.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon
adoption. This 1st. day of April 2019

Carrol Mitchem, Chairman
Lincoln County Board of
Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 1st day of April 2019 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"), and Race City Steel, a North Carolina corporation (hereinafter referred to as "Race City Steel").

WITNESSETH:

WHEREAS, Race City Steel has developed plans for the installation of manufacturing equipment in Lincoln County, North Carolina;

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County's tax base and providing additional jobs for Lincoln County's citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect Race City Steel to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before April 1, 2019, Race City Steel shall begin installation of an equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), Race City Steel shall make an investment upon such site in building/land and/or machinery and equipment of \$3,700,000 (the expected capital investment) of which \$3,640,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.

3. Within two years of the effective date of this agreement, Race City Steel shall provide at such site at least 30 new jobs paying average weekly wages of \$875.00 including benefits.

4. In consideration of the performance of the aforesaid obligations by Race City Steel, the County will provide cash grants to Race City Steel of \$14,456.26 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to Race City Steel within 30 days after Race City Steel has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

5. Race City Steel shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.

6. a. In the event that the value of the investment actually made by Race City Steel pursuant to this agreement is greater or less than the Expected Capital Investment then the grant will be equitably adjusted upward or downward on a pro-rata basis.

b. In the event that the number of people in qualifying jobs actually employed by Race City Steel pursuant to this Agreement in any year during the term of the Agreement is fewer than the Expected Number of Jobs, then the County may, in its discretion, reduce the amount of the Grant to be paid for the year (or seek reimbursement for the Grant already paid for said year) in the amount of \$1,000.00 per job shortfall.

7. Race City Steel specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, Race City Steel shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

Race City Steel
By: _____

President

LINCOLN COUNTY

By: _____
Carrol Mitchem
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

Performance Guarantee for Westshore Subdivision: Jeremiah Combs presented the following:

The developer is requesting a Performance Guarantee for Westshore Subdivision in lieu of completing the sidewalks and roadways at this time. They have provided a surety bond in the amount of \$362,921.25, valid through April 4, 2021.

UPON MOTION by Commissioner Sigmon, the Board voted 4 – 1 (Cesena against) to approve the Performance Guarantee for Westshore Subdivision.

Public Comments: Chairman Mitchem opened Public Comments.

Robert Avery, 4466 Hwy 182, Crouse, spoke concerning fire districts in Lincoln County.

Being no additional speakers, Chairman Mitchem closed Public Comments.

Environmental Health Discussion with Lincoln County Homebuilders Association:

Mr. Jimmy Lowe, spoke representing Lincoln County Homebuilders Association. He asked the Board to extend the time allotted for reimbursements for Soil Scientists until June instead of February. He said the time frame for a soil test is still 9 to 10 weeks.

Chairman Mitchem apologized for the situation and said the Board has put forth a lot of effort to try to resolve the issues.

Maggie Dollar gave an update on the staffing shortage. She said the backlog started at 484, they completed 337 of them and that left 147, which was reported in February. Since February and March, they have completed 117 of those 147, plus repairs for existing systems. As of Friday, there were 30 in the backlog and some were completed over the weekend.

Ms. Dollar said the Board approved reimbursement for expediting using session law with a Soil Scientist. Those people who follow this procedure will get a reimbursement from October to February 1. She said they got zero applications from the backlog, and she recently got a request for \$1500 for 3 lots that were session law.

Mr. Lowe said he hired a soil scientist from the list provided by Environmental Health. They are being told that Jonathan Harris will still need to meet with them at the site and will not just sign off on it, which will still delay the approval. He said it was not made clear to him and other builders who would be eligible for reimbursement.

Ms. Dollar said there seems to be miscommunication as to Jonathan Harris going to the site.

Ms. Dollar said the typical lead time, once the backlog is cleared, will be around April 15. She said they have to finish the backlog and then start on new permits. She said it would be late May if someone came in to apply for a new permit tomorrow.

Commissioner McCall said she would like for the new fast track list that has been created to read at the top: Option 1 – Session law 2018-114 and give the definition to what that is and Option 2 with the details. This would help explain to citizens what they are applying for. She said that Mr. Harris going out to the site should be the exception to the rule and not with every application.

Mr. Atkins asked the Board to consider extending the timeframe until June, when this backlog is cleared out.

Commissioner Cesena asked the Board if there was any interest in removing Environmental Health from the State.

UPON MOTION by Commissioner Cesena, the Board voted 4 – 1 (Sigmon against) to look into removing the Health Department and Department of Social Services out of the hands of the State and under County control.

UPON MOTION by Commissioner McCall, the Board voted unanimously that the fast track list include 2 options and explain Option #1 – the old method explained and Option #2 – Session Law 2018-114, which is the fast track method so homeowners know exactly what they are applying for and that the reimbursement period will be extended to June 30.

Transportation of Lincoln County Drug and Alcohol Policy Revisions: Ron Rombs presented the following:

The US Department of Transportation (USDOT) Office of Drug and Alcohol Policy and Compliance (ODAPC). The regulations have not been revised this year and Lincoln County Board of Commissioners are required to review and approve its Drug and Alcohol policy according to USDOT's drug and alcohol testing regulation (49 CFR Part 40). This policy is required to be reviewed and approved annually.

Lincoln County is proposing the annual adoption of a “standardized: USDOT Drug Testing Policy Template which includes “all proposed policy revisions”. Staff recommends that the Board of Commissioner approve the new revisions as submitted.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the TLC Drug and Alcohol Policy Revisions.

Adoption of Transportation Lincoln County Safety and Security Plan: Ron Rombs presented the following:

NCDOT requires the Safety and Security Plan (SSP) to be adopted and approved by the Board of Commissioners annually. The document only needed minor updates as follows:

Emergency Action Plan and Fire Prevention updated evacuation route map for FOC facility
Preventive Maintenance Plan updated to include 2019 model year vehicles.

SOG 201-05 Key Control Policy created
Media Contact List updated.

Mr. Rombs asked for the Board's approval and adoption of the TLC Safety and Security Plan (SSP).

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve the TLC Safety and Security Plan.

Commissioner Permenter thanked Ron Rombs and his staff for assisting in the transport of a patient, a long time citizen of Lincoln County, from one hospital to another so he could pass away peacefully there.

Adoption of a Resolution Approving an Installment Financing Contract with Regions Capital Advantage and Authorizing Execution and Delivery of Documents in Connection Therewith: Deanna Rios presented the following:

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

The Lincoln County (the "County") Board of Commissioners (the "Board") held a regular meeting at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M. on April 1, 2019. The following Commissioners were:

Present: Chairman Mitchem, Commissioners Permenter, McCall, Sigmon, Cesena
Absent: N/A

RESOLUTION APPROVING AN INSTALLMENT FINANCING CONTRACT WITH REGIONS CAPITAL ADVANTAGE, INC. AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH

Commissioner Cesena moved adoption the following resolution, that motion was seconded by McCall, and the resolution was read by the above title.

WHEREAS, the Board of Commissioners of the County duly conducted a public hearing on March 4, 2019 regarding an installment financing contract;

WHEREAS, there have been available at this meeting drafts of the forms of the following:

- (1) Installment Financing Contract (the "Contract") between the County and Regions Capital Advantage, Inc. (the "Lender"); and
- (2) Deed of Trust and Security Agreement (the "Deed of Trust") from the County to a trustee for the benefit of the Lender.

WHEREAS, the Board of Commissioners of the County wants to approve the Contract and the Deed of Trust and to authorize other actions in connection therewith; and

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

1. Each of the Contract and the Deed of Trust, in the form submitted to this meeting, is hereby approved, and the Chairman of the Board, the County Manager, the Finance Director, and the Clerk to the Board are each hereby authorized and directed to execute and deliver each of those documents, on behalf of the County, with such changes, insertions or omissions as each may approve, the execution thereof by any of them to constitute conclusive evidence of such approval.
2. The Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board and the County Attorney are each hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Contract. Execution of the Contract by the Chairman of the Board, the County Manager or the Finance Director, shall conclusively evidence approval of all such details of the financing.
3. All actions of the County effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.
4. This Resolution shall become effective immediately upon its adoption.

The motion to adopt the resolution was adopted by the following vote:

AYES: Unanimously approved

NAYS: N/A

* * *

STATE OF NORTH CAROLINA)

COUNTY OF LINCOLN)

I, AMY S. ATKINS, Clerk to the Lincoln County Board of Commissioners, DO HEREBY CERTIFY as follows:

1. A meeting of the Lincoln County Board of Commissioners, located in the State of North Carolina, was duly held April 1, 2019, such meeting having been noticed, held and conducted in accordance with all requirements of law (including open meetings requirements), and minutes of that meeting have been or will be duly recorded in the Minute Book kept by me in accordance with law for the purpose of recording the minutes of the Board.

2. The attached extract accurately reflects the actions taken by the Board of Commissioners with respect to the matters therein.

3. That extract correctly states the time when the meeting was convened and the place where the meeting was held and the members of the Board who attended the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the seal of the County as of April 1, 2019.

(SEAL)

Clerk to the Board of Commissioners

Approval of Audit Contract from Martin Starnes for FY 20 for \$74,500 and also tentative approval for FY 21 and 22: Deanna Rios explained the process for receiving bids and recommending an auditor for FY 20. Finance released and RFP for audit services and received four bids. The lowest responsible bidder was Martin Starnes and Associates, the current auditor.

Mrs. Rios asked for the Board's approval on the audit contract from Martin Starnes for FY 20 for \$74,500 and also tentative approval for FY 21 and FY 22.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve the audit contract from Martin Starnes for FY 20 for \$74,500

Budget Ordinance Amendment #6: Deanna Rios said BOA #6 is appropriating state grant funds for Senior Services, Library, and the Health Department. It also appropriates and

budgets several donations for Animal Services and DSS. It also appropriates General Fund balance to budget in the Sheriff's line, and Water and Sewer Fund balance to transfer to Water/Sewer CIP Fund.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve BOA #6.

Grant Project Ordinance #4: Deanna Rios said this Grant Project Ordinance is adding and budgeting the Partners grant for the Department of Social Services.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve GPO #4.

Capital Project Ordinance Amendment #4: Deanna Rios said CPOA #4 is budgeting transfers to the Water/Sewer CIP and also Proceeds of Financing. It also budgets a State Grant given to the County for the furnishings of the new Senior Services Center.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve CPOA #4.

Commissioner Cesena informed the Board of Safe Kids Day at the YMCA on May 4.

Other Business: Commissioner Permenter informed the Board of his Town Hall meeting at East Lincoln Community Center on April 11, 2019 at 7:00 PM.

Commissioner Permenter said many Commissioners believe the roads in Eastern Lincoln County are at safe capacity. He said one option available is to not provide sewer capacity in a way done in the past. In the past, in general terms once the shovels breaks on construction of the new sewer plant, we have applied and been permitted to allocate the additional 10% in the existing sewer plant.

Commissioner Permenter said for residential uses only, he would suggest that the Board direct Public Works to not apply for that remaining 10% until actual completion of the sewer plant.

A MOTION by Commissioner Permenter to direct Public Works to not apply for that remaining 10% or to apply for the remaining 10%, but only have it available for commercial/industrial purposes.

Commissioner Permenter said the developments already granted capacity will get up to 84%. The impact would not as large or immediate as he would hope, but it will have a ripple effect and keep cars off the road.

Don Chamblee said construction will start in June of this year and should be finished December, 2020.

Commissioner Permenter asked Mr. Deaton if the motion is clear enough. Mr. Deaton said it is clear what had been indicated to Don Chamblee and it is clear that the Board does not want to take any rights that are vested that are already in process.

VOTE: Unanimously approved.

Closed Session: UPON MOTION by Commissioner Sigmon, the Board voted unanimously to enter Closed Session pursuant to NCGS 143.318.11 (a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

The Board returned to Open Session and Chairman Mitchem announced that no action was taken in Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners