

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MAY 1, 2006

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on May 1, 2006, at the James W. Warren Citizens Center Auditorium, 115 West Main Street, Lincolnton, North Carolina, at 6:30 p.m..

Commissioners Present:

Thomas R. Anderson, PE, Chairman
James Buddy Funderburk, Vice Chairman
Carrol Mitchem
Marie Moore
Alex E. Patton

Planning Board Members Present:

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

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Delores Alfaro, Assistant Clerk to the Board
Susan Spake, Director of Emergency Management
Mike Futrell, Fire Marshall
Karen Leonhardt, Director of Senior Services
Roger Huffman, Transportation Coordinator
Kelly Atkins, Director of Building & Land Development
Randy Hawkins, Zoning Administrator
Brad Dyer, Associate Planner
Candi Cornwell, Review Officer
Amy Brown, Clerk to the Planning Board
Steve Gilbert, Director of Public Works
Leon Harmon, Director of Finance

Call to Order: *Chairman Anderson* called the April 3, 2006, meeting of the Lincoln County Board of Commissioners to order.

Invocation – Commissioner Funderburk: *Commissioner Funderburk* gave the invocation.

Pledge of Allegiance: *Commissioner Funderburk* 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

MAY 1, 2006

	6:30 PM	Call to Order
1.	6:31 PM	Invocation – Commissioner Funderburk
2.	6:32 PM	Pledge of Allegiance
3.	6:33 PM	Adoption of Agenda
4.	6:35 PM	Consent Agenda <ul style="list-style-type: none">- Approval of Minutes<ul style="list-style-type: none">- April 17, 2006- Budget Adjustment No. 84- Tax Requests for Releases – More than \$100<ul style="list-style-type: none">- Mar 16 – Apr 15, 2006- Proclamation for Older Americans Month 2006- Sponsored Group Status<ul style="list-style-type: none">- North Carolina Symphony – Lincoln County Chapter- Waived Fee<ul style="list-style-type: none">- Lincolnton-Lincoln County F.O.P. Lodge #85
5.	6:40 PM	Public Hearing - Amendments to the Lincoln County Fire Prevention and Protection Ordinance – Mike Futrell
6.	6:45 PM	Public Hearing - ROAP (Rural Operating Assistance Program) Application – Karen Leonhardt/Roger Huffman
7.	6:50 PM	Zoning Public Hearings – Randy Hawkins

ZMA #527 Custom Buildings, applicant (Parcel ID# 29727) A request to rezone a 2.0-acre parcel from R-SF (Residential Single-Family) to B-N (Neighborhood Business). The property is located on the west side of Hwy. 16 about 1,000 feet south of Sarah Drive in Catawba Springs Township.

ZTA #528 Lincoln County, applicant. A proposal to amend Section 8.22.15 of the Lincoln County Zoning Ordinance to require that any new structure be set back at least 50 feet from the full-pond level of Lake Norman.

ZTA #529 Lincoln County, applicant. A proposal to amend Section 13.8 of the Lincoln County Zoning Ordinance to allow businesses to display a temporary sign without a permit, provided such sign does not exceed 8 square feet in sign area and 5 feet in height.

CUP #272 Cherry Enterprises Inc., applicant (Parcel ID# 02431 and 02433) A request for a conditional use permit for a proposed 262-unit housing development with 220 townhouses and 42 duplex units (including 32 existing duplex units) in the R-S (Residential Suburban) district. The 42.2-acre tract is located on the south side of Unity Church Road near Cherry Lane and Normandy Road in Catawba Springs Township.

PCUR #132 Ben and Kay Nixon, applicants (Parcel ID# 79890, 79891, 33481 and 33482) A request to rezone 5.8 acres from R-T (Transitional Residential) to CU R-CR (Conditional Use Residential and Commercial Recreational) to permit a recreational vehicle park with 35 spaces. The property is located on the south side of Pine Ridge Drive about 600 feet east of Campground Road in Catawba Springs Township.

PCUR #133 Pulte Homes, applicant (Parcel ID# 02441, 31428, 51876, 51881, 30843, 02378, 32945, 58835 and 58834) A request to rezone 599 acres from R-T (Transitional Residential), B-N (Neighborhood Business) and I-G (General Industrial) to CU P-R (Conditional Use Planned Residential) to permit a development with 1,650 homes, including single-family homes, townhouses and condominiums. The property is located on the south side of Hwy. 73 and west side of Little Egypt Road in Catawba Springs Township.

8. 9:20 PM Consideration of Lincoln County Schools' Request Regarding Middle School Property – Leon Harmon

9. 9:25 PM Vacancies and Appointments

10. 9:30 PM Other Business

Adjourn

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

Consent Agenda:

- Approval of Minutes
 - April 17, 2006
- Budget Adjustment No. 84
- Tax Requests for Releases – More than \$100
 - Mar 16 – Apr 15, 2006

NAME	YEAR	A/C NO	AMOUNT
Campbell, Morgan	2004/05	0163106	\$ 154.20
Crisman, W. Nelson	2005	03248	\$ 2,645.10
Drzylmala, Randy J.	2003	0163135	\$ 187.62
Hart, Ada Jane Long M L Construction & Remodel	2005	0163516	\$ 582.52
Neal, Bill	2000-02	0179170	\$ 140.48
Southern Fiber Inc.	2003-05	0125140	\$ 758.01
Thompson, Rita Faye S.	2005	40698	\$ 129.00
Tysinger, Ervin Crayton Jr.	2005	0153692	\$ 716.36
		TOTAL	\$ 5,580.87
Kemp, Colin H.	2005	0191361	\$ 194.34
Lemberger, Angie Nichole	1997	0125085	\$ 159.30
London Electric Inc.	2006	0183488	\$ 105.19
McGee Cabinet Shop Inc.	2005	0064963	\$ 171.01
Mowrey, Randolph Paul	2005	0191606	\$ 172.07
O'Brien, Raymond Francis	2005	0191589	\$ 216.57
Perkins, Jane Rudisill	2005	0116069	\$ 129.78
Piedmont Transportation	2005	0111058	\$ 262.36
Ramey, Roger Roland	2005	0189282	\$ 106.12
RGS Electric Inc.	2005/06	0185954	\$ 112.26
Richardson, Sonja Ellis	2005	0168704	\$ 165.40
Saine, Terry Allton	2005	0073797	\$ 117.80
Sessions, Ronald Thomas	2005	0187805	\$ 250.15
Smith, Alice Faye	2005	0173266	\$ 117.59

Southern Electrical Cont.	2005	0131608	\$ 398.97
Tallent, Sandra Rhodes	2005	0191407	\$ 123.38
Town Square Ford Inc.	2005	0089603	\$ 163.92
TOTAL			\$ 4,885.61

- Proclamation for Older Americans Month 2006
- Sponsored Group Status
 - North Carolina Symphony – Lincoln County Chapter
- Waived Fee
 - Lincolnton-Lincoln County F.O.P. Lodge #85

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

Public Hearing - Amendments to the Lincoln County Fire Prevention and Protection Ordinance – Susan Spake/Mike Futrell: *Susan Spake, Director of Emergency Management*, presented two amendments to the Lincoln County Fire Prevention and Protection Ordinance.

Chairman Anderson opened the public hearing concerning Amendments to the Lincoln County Fire Prevention and Protection Ordinance.

Jay Flynn, who spoke in behalf of fifteen fire departments, asked the Board to reconvene before taking any action so as to allow people affected by this to become aware of it. Mr. Flynn presented a picture to the Board to review.

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

By consensus, the Board agreed to defer making a decision on the amendments to the ordinance.

Public Hearing – ROAP (Rural Operating Assistance Program) Application – Karen Leonhardt/Roger Huffman: *Karen Leonhardt, Director of Senior Services*, presented the ROAP application.

Chairman Anderson opened the public hearing concerning the ROAP (Rural Operating Assistance Program) Application.

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

UPON MOTION by *Commissioner Patton*, the Board voted unanimously to approve the Rural Operating Assistance Program Application.

Zoning Cases – Randy Hawkins:

Chairman Anderson reminded Commissioners and Planning Board members that, if any ex parte discussions had taken place with regard to these cases, they should make it known when the case was presented.

Zoning Map Amendment #527 – Custom Buildings, applicant: A request to rezone a 2.0-acre parcel from R-SF (Residential Single-Family) to B-N (Neighborhood Business). The property is located on the west side of Hwy. 16 about 1,000 feet south of Sarah Drive in Catawba Springs Township.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment #527.

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

Zoning Map Amendment #528 – Lincoln County, applicant: A proposal to amend Section 8.22.15 of the Lincoln County Zoning Ordinance to require that any new structure be set back at least 50 feet from the full-pond level of Lake Norman.

Chairman Anderson opened the public hearing for Zoning Map Amendment #528.

Cynthia Jones stated that she represented LNRC (Lincoln Natural Resources Committee), and that they voted unanimously to support this change.

Elizabeth Finley stated that she was a new resident at Westport, and that she supported the proposal based on what Ms. Jones had stated.

Michael Jones stressed the importance of keeping vegetation along the lake's edge. Mr. Jones stated that it is critical for the watershed area, and that it offers a sense of fairness and simplification of the Zoning Ordinance.

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

Zoning Map Amendment #529 – Lincoln County, applicant: A proposal to amend Section 13.8 of the Lincoln County Zoning Ordinance to allow businesses to display a temporary sign without a permit, provided such sign does not exceed 8 square feet in sign area and 5 feet in height.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment #529.

Connie Zmijewski stated that she had the opportunity to visit West Lincoln last week, and that she saw no signs in that area, unlike East Lincoln, which she likened to a carnival. Ms. Zmijewski requested that the ordinance be stiffened, and that the nice retailers had left the area. She stated that it was interesting that signs were removed prior to an election.

Andrew Johnson stated that their main goal was to help Randy Hawkins (Zoning Administrator) with the ever increasing signage. Mr. Johnson asked Commissioners to table the amendment for further review.

Gary Caldwell stated that, as President of DABA and a member of the Denver Chamber of Commerce, he was speaking on behalf of DABA, representing 90 businesses. Mr. Caldwell stated that Denver does look like a carnival, and that this amendment needs to be rethought, reworked and redone. He asked the Board to send it back for more review.

Todd Wulffhorst stated that the Denver Chamber of Commerce had not had a chance to meet and discuss, nor an opportunity for the groups to review.

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

Conditional Use Permit #272 – Cherry Enterprises Inc., applicant: (Parcel ID# 02431 and 02433) A request for a conditional use permit for a proposed 262-unit housing development with 220 townhouses and 42 duplex units (including 32 existing duplex units) in the R-S (Residential Suburban) district. The 42.2-acre tract is located on the south side of Unity Church Road near Cherry Lane and Normandy Road in Catawba Springs Township.

John Pagel, Planning Board Vice-Chair, asked if it was an age restricted community. *Randy Hawkins* deferred to the applicant. Mr. Pagel asked if there was any change in amenities. Mr. Hawkins stated that sidewalks and a walking trail on the outside perimeter had been added.

Harold Howard Jr., Planning Board, stated that he had a lengthy discussion with Gary Dellinger after the March hearing.

Gary Dellinger, owner of the property, gave the Board a brief history about Cherry Enterprises and the mobile home park. Mr. Dellinger presented figures from a traffic study he did. He stated that older citizens would not add to the traffic burden, and that they aren't as likely to come out after dark. Mr. Dellinger stated that he felt badly for the residents of the mobile home park, but that times change. He stressed the importance of taking care of our aged.

When questioned by *Commissioners Patton and Moore* regarding the age restriction, *Mr. Dellinger* stated that the age limit for the development was advertised, although it was omitted in the proposal. He stated that the age restriction is 55 and up, and that he would have that added to the proposal.

Commissioners Anderson and Moore expressed concern about runoff. *Chairman Anderson* stated that the arrangement regarding one water meter gave him cause for concern, and advised Mr. Dellinger to meet with the legal counsel who would be serving his by-laws.

Commissioner Moore asked about the residents in the mobile home park. *Mr. Dellinger* stated that they would be given adequate notice, and that they would assist them any way they could. He stated that this was business, and it was the hardest decision he ever had to make.

Chairman Anderson opened the public hearing concerning Conditional Use Permit #272.

Recil Wright, a representative of the owner, offered to answer any questions the Board might have.

Miles Wright, a representative of the owner, offered to answer any questions that Board might have.

Jay Clapp, Traffic Engineer with Ramey Kemp & Associates Inc., distributed a handout of traffic data. *Harold Howard Jr., Planning Board*, asked if he was proposing any (traffic) improvements. Mr. Clapp stated that he was not. *Chairman Anderson* asked who he suggested make them, if the developer wasn't.

Rose Marie Young stated that she lived directly behind the mobile home park, and that her concerns were water runoff and the impact this development would have on her well. Ms. Young asked if she could tie into the water line. She stated that, in regards to water bills, there would be a lot of difficulty getting people to pay them, noting the discrepancy in the minimum amount quoted of \$9, compared to her minimum of \$20.

Reynolds Pomeroy stated that he lived directly behind the property, and that his concerns were traffic and emergency evacuation. Mr. Pomeroy stated that this would complicate the situation, and that the line has to be drawn somewhere. He stated that he prefers to keep the Zoning Ordinance as it is.

Michael Schreier, representing several families from his neighborhood, expressed concern about traffic, noting that he did a traffic study at the intersection of Hwy. 16 and Unity Church Road. Mr. Schreier gave the results of that study, noting that the boat landing gets heavy traffic on weekends, and that this was a disaster waiting to happen. He stated that neighbors 55+ were in attendance tonight, and that he has discovered that, the older he gets, the higher his water usage.

Connie Zmijewski stated that there is only one exit on Unity Church Road, and that, in looking at the map, the development adds to the yellow zone. Ms. Zmijewski stated that the density is inappropriate, and that it would double the population. She stated that, with a lot of seniors, we must develop a plan, in the event of a nuclear accident. Ms. Zmijewski stated that she thought this was tabled, and now it's back.

Joe Redmond stated that this proposal is not substantially different than March's proposal. Mr. Redmond noted his concerns as safety and growth, taxing the county in regards to schools and infrastructure, and a McGuire nuclear evacuation. He stated that the proposal is unadulterated greed.

Jeff Spain, referring to a park that was mentioned earlier, stated that the extent of people using the park coupled with this development would make Unity Church Road a parking lot. Regarding senior citizens, Mr. Spain stated that he was worried about his sixteen year old son (driving) on the highway.

Carlton Oakley II, who lives with his parents in the mobile home park, stated that he was here on behalf of his dying parents. Mr. Oakley stated that his parents are on a limited income, and that they can't afford to move, nor can they move the mobile home because there's nowhere else to move it.

William Haren stated that the water/sewer was not addressed at all, that the water pressure was already low, and that the main may not handle the load at peak hours. Mr. Haren stated that the roads had already been addressed, and that they were inadequate. He stated that this proposal is incompatible with the area, and that \$1.5 - \$1.75 million dollar homes are going in. Mr. Haren stated that times are changing, and that this is not the time or place for this.

Cynthia Jones stated that there was the issue of the watershed, and that this was in the Lake Norman Critical Watershed area. Ms. Jones stated that the impact was not considered, and that she was concerned about density and buffered areas.

Todd Wulfforst referred to the closings and downsizing in the area. Mr. Wulfforst questioned what the number of people would be per unit.

Jerry B. Sellers, an eighteen-year resident, stated that the property needs to be developed, but that this doesn't fit.

Brian Moates, a resident at The Gates, stated that, as a taxpayer, he had a problem comparing this development to The Terraces. Mr. Moates stated that he did not feel it was fair for the county to lose money by allowing only one meter.

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

Parallel Conditional Use Rezoning #132 – Ben and Kay Nixon, applicants: (Parcel ID# 79890, 79891, 33481 and 33482) A request to rezone 5.8 acres from R-T (Transitional Residential) to CU R-CR (Conditional Use Residential and Commercial Recreational) to permit a recreational vehicle park with 35 spaces. The property is located on the south side of Pine Ridge Drive about 600 feet east of Campground Road in Catawba Springs Township.

Candi Cornwell distributed copies of two e-mails opposing the request to the Board.

Commissioner Mitchem asked if this was going to be built as a recreation facility. Randy Hawkins stated that it was going to be an RV park for short term.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Permit #132.

Kay Nixon, applicant, asked for the Board's support of this request, as her husband, **Ben Nixon, applicant**, distributed copies of a petition signed by people supporting the park and rezoning. Ms. Nixon stated that this request was for a proposed RV park, that would be buffered with fencing and shrubs. She stated that it would be kept low density, and that it would not impact traffic or schools. Ms. Nixon stated that the petition shows support of their request.

Jeanne Nuhfer, who lives adjacent to the property, stated that her concerns were that the residents would be out-of-town people with no background and the safety of local children. Ms. Nuhfer stated that the Nixons moved a dilapidated house onto their property four years ago, and that she was told it was grandfathered in. She stated that she is against transients living in the area, and that she should not have to live in fear.

Cynthia Whitehouse, a one-year resident, stated that she is two hundred feet from the proposed campground. Ms. Whitehouse stated that she wants the area to be beautiful, and that she moved there because it's quiet, and that she wants to retire there. She referred to the old house on the property. Ms. Whitehouse stated that this is a safe place, and mentioned that there are mailboxes on a dirt road next to this property. She stated that she doesn't want transients, and that she is thankful for finding her property.

Jill Reed stated that she doesn't want it (the RV park), and that the property is a mess. Ms. Reed stated that she has two small children.

Denise Labs presented a petition from the Windy Pines Homeowners Association opposing the request. Ms. Labs stated that the property is increasingly worse (in appearance). She stated that the campground is incompatible, and not in harmony with the area. Ms. Labs stated that the condition of the existing campers is undesirable.

Jay Flynn stated his opposition to the request, citing added traffic and transient workers as reasons for his opposition. Mr. Flynn stated that he has a new baby daughter. He stated that there are two existing campgrounds less than three miles away.

Joe Seifert stated that the place has gotten progressively worse, asking why the Commissioners were considering the request when the applicants are in violation and breaking the law. Mr. Seifert asked how many trailers they're allowing, adding that there are two recreation parks within four miles of this place. He stated that there is no need for this park, and that this is a good development as it is. Mr. Seifert stated that this is the only road in and out of the community.

Marc Hayes stated that he is opposed to this request for all of the reasons stated. Mr. Hayes presented some pictures he had taken to the Board to review.

Thomas Lazarides stated that there is one road in and one road out, and that he was worried about traffic. Mr. Lazarides stated that this is a nice neighborhood for a gated community. He stated that the RV park had always been a mess.

Teresa DeArnley, representing ELBA, stated that the RV park is detrimental to their quality of life, asking what our plan was. Ms. DeArnley stated that they didn't need transients and migratory workers moving in.

Eddie Weatherman, a sixteen-year resident, stated that he could attest to the appearance of the vacant house, noting that no one has ever lived in it. Mr. Weatherman stated that three to four people, each one with a vehicle, live at each camper site, which is located on a five-acre area. He stated that he had never had anything stolen.

Robert Keller stated that his family purchased their property and built their home thirty years ago. Mr. Keller stated that the Nixons were already in violation, and that the sewer tap was probably designed for one home. He referred to transients. Mr. Keller asked the Board to consider whether an RV park was desirable in an upscale community.

Billy Pope, speaking in behalf of Windy Pines Home Owners Association, stated that they are vehemently opposed to this request. Mr. Pope stated that he would like to capitalize on previous comments regarding violations and transients.

Edward Ownby stated that he supported the request, and that he saw no problem with it.

Ron Needham, speaking in behalf of himself and his neighbors, stated that this would lead to a severe loss of tax revenue. Mr. Needham stated that the occupants would have no ties to the community, no incentive and no allegiance. He stated that it would result in a reduction of safety and security in the neighborhood. Mr. Needham asked the Board to consider the upcoming election.

Ben Nixon, applicant, stated that he went to every property owner regarding this request. Mr. Nixon stated that he spoke to an official about the crime rate, and that it is lower there than in the rest of the county. He referred to one resident whose camper is valued at \$750,000, and that if he were that resident, he would take his business where he can put his RV.

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

Parallel Conditional Use Rezoning #133 – Pulte Homes, applicant: (Parcel ID# 02441, 31428, 51876, 51881, 30843, 02378, 32945, 58835 and 58834) A request to rezone 599 acres from R-T (Transitional Residential), B-N (Neighborhood Business) and I-G (General Industrial) to CU P-R (Conditional Use Planned Residential) to permit a development with 1,650 homes, including single-family homes, townhouses and condominiums. The property is located on the south side of Hwy. 73 and west side of Little Egypt Road in Catawba Springs Township.

George Arena, Planning Board, stated that he had a conversation with the applicant regarding minor issues.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Permit #133.

Kirby LaForce, applicant, presented drawings of the proposed development, which included the subject property, Carolina Ridge, a rendering of the clubhouse and buffer/screening. In addition, Mr. LaForce presented a brief video of the lifestyle of Del Webb. He stated that he had met with various city and county officials, department heads, community groups, and a principal, and that he had committed to assistance and contributions above and beyond what is required to offset the impact of the proposed development.

Walter Fields, applicant, presented the Land Use Plan aspect of the development.

Amy Massey, Traffic Engineer, presented the Traffic Impact Analysis.

Jeff Goodman, President, B. V. Hedrick Gravel and Sand Co., asked representatives present to stand and show their support for the company. Mr. Goodman gave a brief history of the company, and stated that it was a showplace to the aggregate industry. He stated that the current zoning allows them to operate safely, and that the proximity of the proposed development was not conducive to their business, due to the blasting and the noise. Mr. Goodman stated that they are one of two quarries in Lincoln County. He presented a video on the quarry for the board members and audience to view.

Craig Justus, Attorney, Van Winkle Law Firm, stated that his firm represented Hedrick Industries. Mr. Justus presented a packet of information on the Lake Norman Plant, along with information refuting the Land Use Plan submitted by the applicant.

Michael Jones stated that it was very important that the Board require that the applicant conduct an engineering survey to have no sedimentation, and certify that they have control measures in place. Mr. Jones stated that catch ponds must be maintained.

Brian Moates, speaking in behalf of ELBA, stated that a lot of work still needs to be done, and asked if this was the best use of the area.

David Clark Jr., owner of the property for the proposed development, stated that he had received numerous requests for residential use of this property. Mr. Clark stated that Pulte Homes is a committed developer, and that their development is the highest and best use of the land.

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

Chairman Anderson asked for the Board's consensus on whether or not to defer the request or continue.

Commissioner Moore stated that they should continue.

Resolution to Purchase Real Property for New Middle School Site – Leon Harmon:

Leon Harmon presented the resolution to purchase real property for the new middle school. The resolution was revised, at Commissioner Patton's request at the April 17 meeting, so that the County could retain use of the remainder of the property that would not be used by the school. Mr. Harmon stated that all parties involved in the transaction gave their approval of the revision. *Mr. Taylor* stated that the additions/changes were made in Paragraph 2, at the bottom.

Commissioner Moore stated that she didn't feel good about this, and the reason was because she learned that we were not over capacity. Ms. Moore stated that she was led to believe that we were in a crisis situation with the schools, and that we needed to do something now. She stated that she was told by someone other than the School Board that our projected enrollment was not at capacity. Ms. Moore stated that she called Steve Zickefoose today, and he e-mailed her information indicating that we are not at capacity, and she wanted to make the Board aware of that. Ms. Moore stated that Pumpkin Center, with some redistricting could shift 127 students to extra classrooms at G. E. Massey. Ms. Moore stated that she's just telling the Board what she found out, because she doesn't feel good about it because everybody kept talking about schools, which led her to believe that many of the schools were over capacity when we actually have 12,288 students with capacity for 14,007 students, so we have a capacity of 87%. *Commissioners Funderburk, Mitchem and Patton* disagreed.

UPON MOTION by *Commissioner Patton*, the Board voted 4-1 to adopt the Resolution to Purchase Real Property for New Middle School Site as presented.

AYES: Anderson – Funderburk – Mitchem – Patton

NOES: Moore

Resolution – Growth & Debt Service Committee – Stan Kiser : *Stan Kiser* presented the Resolution adopted by the Growth and Debt Service Committee on April 25, 2006. Mr. Kiser stated that, if approved, the county's name would be added to the one-half cent sales tax bill that passed in the House, and is now in the Senate. He stated that this, if passed in the Senate, would allow the Commissioners to put it on the referendum this fall, allowing the county to vote to choose a property tax or a sales tax.

Commissioner Mitchem asked if this was a unanimous decision by the committee. *Commissioners Anderson and Patton* stated that it was not, that there were two no votes. When *Commissioner Mitchem* asked why, *Chairman Anderson* stated that they were opposed to any increase in taxes, *Commissioner Moore* stated that it was probably because the sales tax normally hits some of the poorest people in the county because the tax never goes away, and *Commissioner Patton* stated that it was because the money was not specifically identified, and felt it would just be put in a general fund. *Commissioner Mitchem* stated that they voted not to let the people vote. *Commissioner Patton* stated that was right.

Commissioner Mitchem stated that he would like to make a comment. He stated that, if there's any such thing as a fair tax, he thought a sales tax was a fair tax, that way, all the people pay, and it does not put all the burden on the property owner, but the people of Lincoln County will be the ones to decide that. *Commissioner Patton* agreed. *Commissioner Moore* stated that you put the tax on everybody instead of on the developer who is causing the problem, that's probably why the two people voted against it. *Commissioner Patton* stated that they told him why they voted against it, and it was because the funds were not designated to a specific entity.

UPON MOTION by *Commissioner Patton*, the Board voted 4-1 to adopt the Resolution, and allow the people of Lincoln County to hold a referendum, if it is approved by the House and Senate.

AYES: Anderson - Funderburk – Mitchem – Patton

NOES: Moore

Vacancies and Appointments:

Vacancies:

Historic Properties Commission *1
Nursing & Adult Care Home Community Advisory Committee *3

Appointments:

Historic Properties Commission:

- David T. Edwards
- Selena Sanford Arney

Nursing & Adult Care Home Community Advisory Committee

- Kathryn Hayes Saine

Commissioner Funderburk stated that, although there was only one vacancy on the Historic Properties Commission, one of the two appointments would serve as a replacement to a current member, per the HPC's request.

UPON MOTION by *Commissioner Funderburk*, the Board voted unanimously to approve the appointments.

Other Business:

Commissioner Patton stated that Susan (Spake) asked if the Board would re-address the Fire Ordinance tonight. He asked Kelly Atkins to explain the urgency. Mr. Atkins stated that the Subdivision Ordinance currently states that roads have to be built to NCDOT's standards, even though the Appendices (which was adopted as part of the Fire Ordinance

four years ago) in the Fire Ordinance sometimes states otherwise, so the two ordinances don't support each other. He stated that they recently learned that these regulations actually existed, and have since met with Mike Futrell and the Assistant Fire Marshall to discuss the Fire Ordinance. As one of the original committee members who reviewed the Fire Ordinance, Mr. Atkins stated that the Appendix, which is above and beyond the norm, was not attached to the ordinance for review. He stated that, in doing a short poll of surrounding cities/counties that utilize appendices, there were none, noting that they use them as recommendations only. Mr. Atkins stated that the Fire Ordinance is a way to control and manage growth. He stated that his department currently has nine developers with appeals in Raleigh, because the Board has no control of this ordinance.

Commissioner Patton suggested suspending these two (amendments) to allow the nine appeals to come back to the Board of Adjustment, while allowing time to redo the Fire Ordinance.

Kelly Atkins stated that Building and Land Development does not object to having higher standards for developers with regards to the streets. He stated that he would not have supported and embraced the ordinance to the extent he did had he known what the Appendices actually meant. Mr. Atkins stated that all of the information is contained in the Appendices, rather than the Ordinance itself.

Chairman Anderson stated that he was concerned because the fire departments are very much in favor of these requirements, and suggested that it be brought back at the next meeting with a recommendation. He stated that, having worked with the National Fire Protection Code over time as an engineer, it warranted letting them assemble to discuss the ordinance, since there are items they want to retain.

Commissioner Patton stated that, if it's important, it should be in the ordinance, not the appendices. He stated that the Fire Marshall's Office and Building and Land Development were adhering to two different sets of criteria.

Kelly Atkins stated that the adopted Appendices in the Fire Ordinance means that they're no longer recommendations, you adhere to them.

Commissioner Moore asked why the two departments didn't communicate any better, what is the problem. Ms. Moore stated that it was a lack of communication.

Chairman Anderson suggested that they come back at the next meeting with a recommendation as to what the Fire Marshall and Building and Land Development require. He stated that he didn't feel it was a necessity to do anything with it tonight.

Chairman Anderson asked if the Board wanted to make a motion that they amend the appeals process of the Lincoln County Fire Prevention Protection Ordinance to read as they've set it out.

Commissioner Patton made a motion to change the appeal process back to the Board of Adjustment, and until we can come up with a new Fire Ordinance, that the Appendices serve as recommendations only as they do in every other municipality, and allow thirty days to bring a plan back that will resolve it between the departments.

UPON MOTION by *Commissioner Patton*, the Board voted 3-2 to approve the motion as stated.

AYES: Funderburk – Mitchem – Patton

NOES: Anderson – Moore

Chairman Anderson reminded the Board that anyone wishing to attend the NCACC County Assembly Day on May 17 notify Delores Alfaro.

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

Delores Alfaro, Assistant Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners