

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JULY 15, 2019

The Lincoln County Board of County Commissioners met on July 15, 2019, at the Commissioners Room, Administration Building, 353 N. Generals Blvd, Lincolnton, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chair
Anita McCall
Milton Sigmon
Bud Cesena

Commissioners Absent:

Richard Permenter, Vice Chair

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 July 15, 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. **UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to adopt the agenda as presented.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, July 15, 2019
6:30 PM

Lincoln County Administration Office
353 N. Generals Blvd
Lincolnton, NC 28092

Call to Order - Chairman Carrol Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 1. Tax Requests for Releases - More than \$100
 2. VTS Refunds
 3. Waived Fees
 - Hesed House Fundraiser
 - Piedmont Council Boy Scouts
 4. Approval of Minutes – June 17, 2019
 5. Surplus Property
 - ~~6. Appointment of Commissioner McCall as Voting Delegate at NCACC Annual Conference~~
3. Introduction of New Field Crops Agent - Tom Dyson, Taylor Dill
4. 4H Presentation - Emma McSwain
5. Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator - Susan Sain
6. Public Hearing on Killian Creek WWTP Phase 3 Expansion Project and Associated Funding - Don Chamblee
7. Request from Public Works to Purchase a 2019 Mack Roll Off Truck for \$167,663.50 - Don Chamblee
8. Discussion and Award of Bid for Highway 73 Water Line Extensions - John Henry
9. Discussion of Property at 211 W. Water Street (Parcel ID 20754) – John Henry
10. Performance Guarantee Approvals – Andrew Bryant
 1. Performance Guarantee for The Farm at Ingleside Phase 1
 2. Performance Guarantee for Fox Chase Phase 2
 3. Extension of Performance Guarantee for Trilogy Parcel A Map 1
 4. Extension of Performance Guarantee for Trilogy Parcel D Phase 1
 5. Extension of Performance Guarantee for Trilogy Parcel F
 6. Extension of Performance Guarantee for Trilogy - Exploration Boulevard Phase 2
11. Public Comments
12. Finance Officer's Report - Deanna Rios
13. County Manager's Report
14. County Commissioners' Report
15. County Attorney's Report
16. Vacancies/Appointments
17. Calendar
18. Other Business
 - Discussion - Address Numbers on Docks

Information Only - No Action Needed
- Register of Deeds Report
- Property Tax Collection Report

19. Closed Session
Adjourn

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

1. Tax Requests for Releases - More than \$100
2. VTS Refunds
3. Waived Fees
 - Hesed House Fundraiser
 - Piedmont Council Boy Scouts
4. Approval of Minutes – June 17, 2019
5. Surplus Property

Introduction of New Field Crops Agent: Tom Dyson introduced Taylor Dill as the new Field Crops Agent.

4H Presentation: Emma McSwain, representing 4H, said she has been chosen to attend the 2019 Youth Voice Conference and looks forward to expanding her leadership skills, spending time and gaining knowledge. She thanked the Board for their time and for investing in young leaders like herself.

Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator - Susan Sain: Susan Sain presented the following:

**RESOLUTION ACCEPTING THE TAX
SETTLEMENT WITH THE LINCOLN COUNTY TAX ADMINISTRATOR**

THAT WHEREAS, the Lincoln County Tax Administrator is charged with the collection of all real and personal property taxes for Lincoln County, the Fire Districts, and the City of Lincolnton.

WHEREAS, NCGS 105-373 sets out a process whereby the Tax Administrator is to settle with the Board of Commissioners on an annual basis for all taxes charged for collection and those collection and remaining uncollected at year-end; and

WHEREAS, such settlement is to take place before the Tax Administrator can be charged with the collection of the next year's tax collections; and

WHEREAS, the Tax Administrator has prepared the required Settlement and submitted it to the Finance Office for Review; and

WHEREAS, the Tax Administrator has forwarded the required Settlement for approval by the Board of Commissioners;

NOW THEREFORE BE IT RESOLVED, and it is hereby RESOLVED that the Lincoln County Board of Commissioners hereby accepts and approves the Settlement of Taxes prepared by the Tax Administrator's Office, which is attached hereto and incorporated by reference into this Resolution.

Adopted this _____ day of July 2019.

Carrol Mitchem, Chair
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

**Order Directing the Tax Collector
To Collect the Taxes Charged in the Tax Records and Receipts**

State of North Carolina
County of Lincoln
To the Tax Collector of the County of Lincoln:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Tax Administrator and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Lincoln, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 15th day of July 2019.

Carrol Mitchem, Chair

ATTEST:

Amy S. Atkins, Clerk to the Board

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator and the Order Directing the Tax Collector to Collect the Taxes Charged in the Tax Records and Receipts.

Public Hearing on Killian Creek WWTP Phase 3 Expansion Project and Associated

Funding - Don Chamblee said the Wastewater Plant design is now complete for the Wastewater Plant expansion. He said advertisements for this public hearing have been placed on the County's website and in the newspaper. The Engineering Report has been posted online and no comments have been received. This public hearing is needed as part of the Clean Water State Revolving Fund Loan for the Killian Creek Wastewater Treatment Plant.

Mr. Chamblee presented the following information:

Killian Creek WWTP:

- Current Capacity: 3.35 MGD
- The plant is currently at 86% of capacity
- Expanded capacity: 6.6 MGD
- The expansion is needed to ensure future economic growth in Lincoln County and to keep up with rapid development in the area.

Alternatives:

- Expansion of existing Sequencing Batch Reactor WWTP
- No action
- Connection into another existing WWTP
- Land Application
- Expansion of the existing WWTP of utilizing an Independent Membrane Bio-Reactor WWTP

Expansion of existing Sequencing Batch Reactor WWTP

This was chosen as the Preferred Alternative because of its compatibility with the current treatment process and its capital and present worth cost is less than that of other expansion alternatives.

This alternative poses the following advantages:

- Operator familiarity with the system,
- SBR is a proven method of wastewater treatment that has been utilized to achieve the proposed speculative permit limits,
- Less energy requirements when compared to other expansion options.

No Action

- No additional flow can be allocated once plant flows hit 90% of capacity
- No action could negatively impact economic growth within the County.
- No action would increase the number of private septic systems which could create potential negative environmental impacts.

Connection to Another Existing WWTP

- City Lincolnton WWTP is the closest facility
- Would require the installation of 17.6 miles of sewer force main and multiple pump stations
- Would require the expansion of the Lincolnton WWTP so the flow from the county could be accepted.
- Not economically feasible

Water Reuse and Land Application

- Water reuse would require more stringent treatment requirements than surface discharge.
- Transportation of reuse water would be a significant cost
- The cost of a treatment system of water reuse would not be cost effective when compared to plant expansion.
- Conjunctive reuse at the Duke Energy CT plant would not be a constant source of reuse, would eventually be discharged into the stream, and would require additional treatment.
- Land application is not a cost effective alternative when compared to others and the land requirements may not be available.
- Environmental impacts to groundwater and site runoff is also a potential concern of land application.

Expansion Utilizing an Independent Membrane Bio-Reactor

- This alternative was rejected based on the capital and present worth cost associated with the process which was greater than the preferred alternative.

Project Funding

Clean Water State Revolving Funds - \$14,000,000.00
Revenue Bonds - \$12,304,200.00

User Fee Impacts

- Current User Fees - \$81.65/5,000 Gallons
- Projected User Fees - \$90.36/5,000 Gallons
- Change of 10.7%
- The above fees are combined water and sewer rates.
- Current Sewer Fees - \$46.25/5,000 Gallons
- Projected Sewer Fees - \$53.19/5,000 Gallons
- Change of 15.0%

Commissioner Sigmon asked how long construction would take until it would be operational.

Mr. Chamblee responded that once the permit is issued, it will take 30 to 45 days to get a contract approved. Construction will take around 18 months so April of 2021 is the projected date.

Chairman Mitchem opened the public hearing concerning the Killian Creek WWTP Phase 3 Expansion project. Being no speakers, Chairman Mitchem closed the public hearing.

Request from Public Works to Purchase a 2019 Mack Roll Off Truck for \$167,663.50 -
Don Chamblee presented the following:

Public Works is requesting approval to purchase a 2019 Mack Roll Off Truck. This will replace a 2007 Roll Off Truck that was wrecked this past year. The roll off truck is being purchased under NCDOT Statewide Term Contract 070J-50,000 CVWR Cab & Chassis Dump Trucks.

Public Works requests approval to purchase the 2019 Mack Roll Off Truck for \$167,633.50, which includes the additional equipment and warranty.

Commissioner Sigmon asked if this will be a 2019 or 2020 model. Mr. Chamblee said it could very well be a 2020 model and that he will check and get back with him.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the purchase of a 2019 Mack Roll Off Truck for \$167,633.50, which includes the additional equipment and warranty.

Discussion and Award of Bid for Highway 73 Water Line Extensions - John Henry presented the following information:

We received bids for the Highway 73 waterline extension and through due diligence found some issues with the apparent low bidder of the project.

Mr. Henry presented a summary of the items found during this process, along with a corrected tab signed by Ryan Hager of WK Dickson and a Resolution to Award this bid to State Utility Contractors, Inc.

The following information was presented:

RFB 2019-0604 Hwy 73 Waterline Summary and Validation

- English Construction made three calculation errors that totaled \$13,440 over submitted base bid.
- Of the current and similar projects listed in the Statement of Qualifications, only two met the minimum requirements of pipeline experience; Town of Strasburg, VA and Steele Creek Pump Station Replacement.
 - Engineer contacted Jay Fulmer with Brown and Caldwell regarding Steele Creek. Mr. Fulmer stated work was acceptable but approximately one year behind schedule due to planning and coordination issues on behalf of English Construction.
- English Construction was removed from the Stevens Creek Lift Station, Force Main and Gravity Sewer Project with Charlotte Water. This was disclosed in the bid documents submitted.
- English Construction did not disclose they were terminated from a contract with Charlotte Water involving the Clems Branch Pump Station and Force Main Replacement Project. Charlotte Waters website updated on May 1, 2019 states the contract was terminated. Lincoln County bids were opened on June 4, 2019.

Mr. Henry Myers, 305 Maple Creek Drive, Monroe, VA said he is the Vice President of English Construction. He said he believes there are inaccuracies in the information presented. He said the statement from the Engineer that the Steel Creek project is approximately one year behind is inaccurate. The project's substantial completion was around five months and they are presently negotiating time extensions for delays beyond their control.

The statement that English was removed from the Stevens Creek Lift Station is inaccurate also. He said this was a termination for convenience by the owner since they awarded the contract, signed the contract, then chose to not move forward.

The statement that English Construction did not disclose they were terminated from a contract with Charlotte Water involving the Clems Branch Pump Station and Force Main

Replacement Project is also materially untrue. He said they have not been terminated and are in negotiations with Charlotte Meck.

Mr. Deaton asked Mr. Myers to confirm that there is not a dispute that English Construction made calculation errors. Mr. English said they haven't been given enough information to check it, all they have been given is a report. He said they have not been given an opportunity to correct, change or dispute it.

Mr. Deaton asked Mr. Myers to confirm that there is no dispute that English is not currently working on the Stevens Creek Lift Station. Mr. Myers confirmed this fact.

Mr. Deaton asked John Henry if he had an opportunity to review the Charlotte Meck website after this issue was brought to his attention. Mr. Henry said after reviewing Charlotte Water's site, there are several areas under the Clems Branch project that states that English Construction has been removed from the project. He said there were 3 or 4 instances on the website, starting on May 1 until July 3, where they made that statement.

Mr. Deaton said the applicable bid statutes are 143-129, which requires the county to award its bid to the lowest responsible bidder, taking into consideration quality, performance and time specified. That statute also gives the Board the power to reject bids for any reason determined to be in the best interest of the county, so long as the county does not reject a proposal in an attempt to evade the bid qualification rules. He said if the Board awards the bid to State Utility, English has the right to do a bid protest within 5 days.

Mr. Henry said the bid of State Utility Contractors is \$7,796,782.20, a difference of about \$30,000 from English Construction's bid.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Resolution to Award Bid to State Utility Contractors in the amount of \$7,796,782.20.

RESOLUTION TO AWARD BID

WHEREAS, Lincoln County, through its engineer, W.K. Dickson & Co., Inc. (the "Project Engineer"), advertised for public bids pursuant to N.C.G.S. §143-129, for that project known as the Highway 73 Water Line Project, known as WKD Project Number 20170324.00.HI (the "Project"); and

WHEREAS, Lincoln County received bids which were opened by the Project Engineer on June 4, 2019; and

WHEREAS, English Construction Co., Inc. ("English"), proffered the lowest bid for the Project, in the amount of \$7,733,147.10; and

WHEREAS, State Utility Contractors, Inc. ("State"), proffered the second lowest bid for the Project, in the amount of \$7,796,782.20; and

WHEREAS, Lincoln County and the Project Engineer reviewed the bid, qualifications and application of English; and

WHEREAS, in said review, Lincoln County and the Project Engineer determined the following:

- a. English made three calculation errors totaling \$13,440 over the submitted base bid;
- b. Of the projects listed in English's bid application as "similar projects," only two such projects met the minimum requirements of pipeline experience. The Project Engineer spoke with the project engineer for one of the two projects, and was told that while the work was acceptable, the work was completed one year behind schedule due to planning and coordination issues that were the responsibility of English;
- c. English disclosed in its application that it had been terminated by the owner from the Stevens Creek project;
- d. English failed to disclose that it had been terminated from a second contract with the same owner; and

WHEREAS, N.C.G.S. §143-129 requires Lincoln County to award its bid to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract; and

WHEREAS, proposals may be rejected for any reason determined by the Lincoln County Board of Commissioners to be in the best interest of Lincoln County, so long as Lincoln County does not reject a proposal for the purpose of evading the provisions of Article 8 of Chapter 143 of the North Carolina General Statutes; and

WHEREAS, the calculation errors made by English, its limited experience with projects similar to the Project, its acknowledged project termination, and its undisclosed second project termination, evidence to the Lincoln County Board of Commissioners that English is not a responsible bidder for the Project; and

WHEREAS, Lincoln County and the Project Engineer reviewed the bid, qualifications and application of State; and

WHEREAS, the application submitted by State evidences that it is a responsible bidder; and

WHEREAS, the Lincoln County Board of Commissioners has determined that State is the lowest responsible bidder for the Project.

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

1. The Project bid submitted by English Construction Co., Inc., is rejected because English Construction Co., Inc., is not a responsible bidder for the Project, for those reasons stated in the recitals above;
2. State Utility Contractors, Inc., is the lowest responsible bidder for the Project, in the amount of \$7,796,782;
3. State Utility Contractors, Inc., is awarded the bid for the Project in the amount of \$7,796,782, pursuant to the terms and conditions described by the Project Engineer, as accepted by State Utility Contractors, Inc., in its bid.
4. This resolution shall become effective immediately upon its adoption.

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

AYES: _____

NAYS: _____

Discussion of Property at 211 W. Water Street (Parcel ID 20754) – John Henry presented the following information:

United Way previously occupied the property located at 211 W. Water Street, but recently moved to a new location. The property has several costly issues to address, such as settling foundation in three locations, leaks in multiple areas, structural wood rot and poor plumbing. Mr. Henry presented a quote from DH Griffin, for right under \$20,000, to demolish the house. He asked the Board to approve demolition or repair of this property.

Commissioner Cesena asked what the property would be used for if remodeled. Mr. Henry said there are no uses for the property.

Mr. Henry said they will tear the house down and pull the mud basement out, then backfill and smooth the property. Eventually this would be used for downtown parking and would look like the Farmer's Market lot. He said the trees will stay for now unless they are in the way of demolition.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve demolition of the property at 211 W. Water Street.

Performance Guarantee Approvals: Andrew Bryant presented the following:

1. Performance Guarantee for The Farm at Ingleside Phase 1
2. Performance Guarantee for Fox Chase Phase 2
3. Extension of Performance Guarantee for Trilogy Parcel A Map 1
4. Extension of Performance Guarantee for Trilogy Parcel D Phase 1
5. Extension of Performance Guarantee for Trilogy Parcel F
6. Extension of Performance Guarantee for Trilogy - Exploration Boulevard Phase 2

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Performance Guarantees and Extension of Performance Guarantees as presented.

Commissioner Cesena expressed a desire to place these Performance Guarantees back under the Consent Agenda on future agendas.

Public Comments: Chairman Mitchem opened Public Comments.

Mr. Robert Avery asked for a Citizen Overview Committee for the Howards Creek Fire Department.

David Maddox, 3193 Fair Oaks Drive, Lincolnton, asked the Board why his subdivision road is not maintained by the developer or the state.

Being no additional speakers, Chairman Mitchem closed Public Comments.

Finance Officer's Report - Deanna Rios presented the Finance Officer's Report.

County Manager's Report: Kelly Atkins informed the Board that the McGuire Drill will be held on August 13, 2019 and will be an all-day event. He informed that Animal Services has now accomplished 2 years of being a No Kill Shelter. He recognized Hannah Beaver, her staff and the volunteer groups involved in achieving this.

County Attorney's Report: Nothing reported.

County Commissioners' Report: Commissioner Cesena said he attended the Animal Services Advisory Board meeting recently and the rewrite of the Ordinance is going well. As a result of that meeting, Josh Grant went to the Comm Center and exotic animals have been recorded.

Commissioner Cesena said he met with Historic Association members.

Commissioner Cesena said he attended a meeting concerning the new Courthouse last Friday and it was an excellent meeting. He said the hope is to break ground in April of next year.

Vacancies/Appointments: **UPON MOTION** by Commissioner Cesena, the Board voted unanimously to reappoint Richard Sides and Sue Jane Sides to the Region F Aging Advisory Committee and reappoint Tony Simpson and Gisella Busse to the Centralina Workforce Development Board.

Commissioner Cesena said that Mayor Ed Hatley will now be the City of Lincolnton's representative on the Library Board.

Other Business: The Board discussed with Sheriff Beam the idea of putting addresses on docks on the lake to improve service.

It was the consensus to move forward with making this happen.

Closed Session: **UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to enter Closed Session Pursuant to NCGS 143.318.11(a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged and (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 McCall, the Board voted unanimously to adjourn the meeting.

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners