

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, FEBRUARY 6, 2006

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on February 6, 2006, at the James W. Warren Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:40 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
George Arena
Clyde Brown
Larry Craig
Jerry Geymont
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
Kelly Atkins, Director of Building and Land Development
Randy Hawkins, Zoning Administrator
Brad Dyer, Associate Planner
Candi Cornwell, Review Officer
Steve Gilbert, Director of Public Works
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the February 6, 2006, meeting of the Lincoln County Board of Commissioners to order.

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

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

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
FEBRUARY 6, 2006

- 6:40 PM Call to Order
1. 6:43 PM Adoption of Agenda
2. 6:44 PM Consent Agenda
- Approval of Minutes
 - January 23, 2006
 - Tax Requests for Releases – More than \$100
 - December 16, 2005 - January 15, 2006
 - Tax Requests for Refunds – More than \$100
 - January 9 – 29, 2006
 - Budget Adjustment No. 57, 58
 - Reimbursement Resolution
3. 6:45 PM Zoning Public Hearings – Randy Hawkins

ZMA #518 Startown Road Mini Storage, applicant (Parcel ID# 56003) A request to rezone 0.6 acres from R-SF (Residential Single-Family) to B-G (General Business). The property is located on the west side of Startown Road at the Catawba County line in Lincolnton Township.

PCUR #127 David and Lynn Mann, applicants (Parcel ID# 31489) A request to rezone a 0.74-acre parcel from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit the use of an existing house as a photography studio. The property is located on Campground Road and Cedar Street in Catawba Springs Township.

PCUR #128 Harrison Huggins, applicant (Parcel ID# 21827) A request to rezone 1.7 acres from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit an open-air garden center. The property is located on the west side of Startown Road about 1,800 feet north of the southern end of Ritchie Road in Lincolnton Township.

PCUR #129 Mark Robinson, applicant (Parcel ID# 81518) A request to rezone a 2.9-acre parcel from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit mini-warehouses. The property is located on the north side of Hwy. 150 about 500 feet west of Quinlan Lane in Ironton Township.

5. 7:30 PM Recommendation from Selection Committee for Planning Firm to Perform Land Use Plan Update and Small Area Plan – Brad Dyer
6. 7:40 PM Other Business

Adjourn

Consent Agenda: UPON MOTION by *Commissioner Patton*, the Board voted unanimously to approve the Consent Agenda, as amended by *Commissioner Moore*:

January 23, 2006, Minutes – Pg 1: Adoption of Agenda – Amended as follows:
Commissioner Moore stated that she would like to discuss scheduling a non-agenda meeting, regarding incorporation **or any other issues**, in East Lincoln.

Commissioner Moore asked about the Reimbursement Resolution in regards to the \$2.3 million, as to whether or not the County would finance that with this or if this is just for the schools. *Leon Harmon* stated that the Reimbursement Resolution as he understood it would be to allow the County to purchase the land for the new middle school, then reimburse ourselves from the proceeds of the loan for the school. Mr. Harmon stated that the County could issue COPS for the school and the land. *Commissioner Moore* asked if the County was also going to borrow some money for the \$2.3 million for the infrastructure for what we're doing at the middle school. *Commissioner Moore* asked if this was in addition to this. *Mr. Harmon* stated that he thought this was for the estimate on the land. He stated that the \$18 million was the estimate of the total project with the school, the land and the infrastructure. *Commissioner Anderson* stated that, basically, the COPS would be confined to the construction of the school and its infrastructure. *Leon Harmon* stated that this would allow the County to express its intent to reimburse any expenditures between now and the time the money is borrowed from the loan proceeds, and that this is more for federal tax purposes.

Consent Agenda

- Approval of Minutes
 - January 23, 2006
- Tax Requests for Releases – More than \$100
 - December 16, 2005 - January 15, 2006

NAME	YEAR	A/C NO	AMOUNT
Blythe, Dale	2005	0163873	\$ 148.63
Burgin, Richard Keith	2005	0189188	\$ 101.91
Carpenter, Frederick Sidney	2005	0189406	\$ 122.62
Castro, Mainor Aguilar	2005	0188833	\$ 108.81
Cobb, Jonathan Robert	2003	0169685	\$ 164.14
Cowans Ford Country Club	2005	0079782	\$ 141.14
Emerson, David L.	2005	13157	\$ 223.01
Freeman, Jason Kyle	2004/05	0169615	\$ 100.88
Hanson, Korie Williams	2005	0189354	\$ 158.00
Her, Nao Vang	2003	0168900	\$ 119.30

Lindley, Royce Lee	2005	0189623	\$ 147.42
Moore, William Michael	2005	0185464	\$ 185.54
No Zip Code LLC	2004	0179579	\$ 134.52
Ollis, Tonya Dawn	1998	0133697	\$ 110.93
Price, Sandra Lee	2005	0180095	\$ 187.78
Rudisill, Mary Dawn	1995/97	0116276	\$ 178.63
Truitt, Charlene Burelson	2004	0182191	\$ 201.31
Tuttle, Edward C.	2005	0187684	\$ 202.06
	TOTAL		\$ 2,736.63

NAME	YEAR	A/C NO	AMOUNT
Abernathy, Charles Ray	2005	11449	\$ 5,262.46
Barrett's Used Cars	1997-05	24352	\$ 818.26
Beam, Carl A.	2005	00430	\$ 2,120.33
Bell, Stuart D.	2005	0180533	\$ 356.82
Chapman, Jonathan A.	2005	0180581	\$ 363.00
Clark, Charles Cullen Jr.	2005	0087541	\$ 358.63
Cochrane, Bruce R.	2005	04908	\$ 281.85
Dellinger Precast Inc.	2005	0166020	\$ 1,624.02
Eaker, Jason Allen	2005	0161752	\$ 141.37
Greenscapes Landscaping	2005	0183734	\$ 232.69
Holbrooks, Kelly E.	2005	0180640	\$ 363.00
Holbrooks, Kelly E.	2005	0156044	\$ 970.89
Philemon, Michael	2005	0180539	\$ 342.90
Pink, William	2005	0188999	\$ 305.45
Siler Homes	2005	0172253	\$ 363.00
Taco & Tequila Mexican Rest	2005	0170181	\$ 695.98
Warlick, Mark	2005	0167599	\$ 276.00
	TOTAL		\$ 14,876.65

- Tax Requests for Refunds – More than \$100

- January 9 – 29, 2006

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (January 9, 2006-January 29, 2006)

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

NAME	YEAR	DIST	A/C#	AMOUNT
USB Leasing, LT	2005	ELFD/ELSD	0162709	182.04
	TOTAL			\$182.04

- Budget Adjustment No. 57, 58
No.57 – Increasing expenditure & revenue line items for additional allocations of funds for Crisis Intervention Program (no county funds involved)
No. 58 – Allocate funds to cover unemployment expense
- Reimbursement Resolution

REIMBURSEMENT RESOLUTION

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN, NORTH CAROLINA, (THE "ISSUER") DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS

WHEREAS, Lincoln County (the "Issuer") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer [has paid, beginning no earlier than December 6, 2005 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the construction of a New Middle School (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina, (the "Board") has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds for one or more issues of tax-exempt financing (the "Financing");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the proceeds of the Installment Financing (COPS) for the Expenditures with respect to the Project made on and after [December 6, 2005, which date is no more than 60 days prior to] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Financing.

Section 2. Each Expenditure [was and] will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case of the date of the Expenditure), (b) a cost of issuance with respect to the financing, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer as long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Installment Financing (COPS) expected to be issued for the above Projects is \$18,200,000.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimus amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 6th day of February, 2006.

Thomas R. Anderson, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board

Zoning Cases – Randy Hawkins:

Zoning Map Amendment No. 518 – Startown Mini Storage, applicant: A request to rezone 0.6-acres from R-SF (Residential Single-Family) to B-G (General Business). The property is located on the west side of Startown Road at the Catawba County line in Lincolnton Township.

Randy Hawkins presented two photos of the property. Mr. Hawkins stated that Goal 5 of the Land Use Plan calls for maintaining the integrity of existing residential areas by discouraging the encroachment of incompatible non-residential land uses. Mr. Hawkins stated that he spoke to Rich Hoffman, Planner in Catawba County, who stated that their staff is going to recommend that Catawba County rezone the applicant's portion of the 1.4-acres, because it would be an expansion of the existing use.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 518 – Startown Mini Storage, applicants.

Ronald Parker stated that he has been in this business for over forty years, and that he was in the warehousing business, in addition to mini-storage. Mr. Parker stated that the mini-storage has been in existence for approximately 15 years. Mr. Parker stated that he would like to expand that business because of the growth in the area. He explained that he would like to stay beside the existing location since the concrete is already there, and would better fit his needs.

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

Prior to presentation of the *quasi judicial* cases, *Chairman Anderson* asked that any Commissioner or Planning Board member who had an *ex parte* discussion regarding any of these cases speak up when the case was presented.

Parallel Conditional Use Rezoning No. 127 – David and Lynn Mann, applicants: A request to rezone a 0.74-acre parcel from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit the use of an existing house as a photography studio. The property is located on Campground Road and Cedar Street in Catawba Springs Township.

Randy Hawkins presented photos of the existing house on the lot and the upholstery shop located across the street.

John Pagel, Planning Board, asked if the house was being used as a residence. Randy Hawkins stated that it is already being used as a studio, which came to his attention through a complaint. Mr. Hawkins stated that the applicants would explain that they thought it was appropriate for business use.

Chairman Anderson asked if there were any *ex parte* discussions which needed to be revealed. Hearing none, Chairman Anderson opened the public hearing concerning Parallel Conditional Use Rezoning No. 127 – David and Lynn Mann, applicants.

Lynn Mann stated that they have a small, family owned business which is operated by appointment or on location, keeping reasonable business hours and a small staff of employees. Ms. Mann stated that an attorney previously lived and worked there, and she was not aware that there could not be just a studio.

Terry Brotherton, also speaking on behalf of Mr. Hammett, stated that he lives directly across from the studio, and that he was a previous owner of the house. Mr. Brotherton stated that he was aware that the property wasn't properly zoned for the studio, but that he was content with the situation as it was because they are such good neighbors. He stated that he thought the case was strictly rezoning, not a parallel conditional use rezoning, and that he was prepared to offer the exterminating company, recently approved, and the furniture showroom as examples to show consistency. Mr. Brotherton

referred to the recent discussion about the historical aspect of Campground Road, noting that it is one of the few historical areas left in East Lincoln. He stated that the integrity of the area can be retained by allowing the studio, particularly since a lot of people aren't interested in living in older homes. Mr. Brotherton stated that traffic issues in East Lincoln generally revolve around Hwy. 16 and 73, and added that Campground Road also has a traffic issue. He stated that he usually has no problem merging into the flow of traffic, due to the courtesy of other drivers, but that NCDOT has erred in planning in that area. Mr. Brotherton stated that, approximately two months ago, he contacted Representative Kiser about the traffic situation, and that Representative Kiser assessed the situation the same day. Representative Kiser phoned him the next day to explain that he had submitted a letter to the head of NCDOT, and that a traffic study would follow. Mr. Brotherton encouraged the Board to follow up with a letter to NCDOT in Raleigh on the heels of Representative Kiser's groundwork.

Commissioner Funderburk agreed with Mr. Brotherton's comments regarding the traffic issue on Campground Road, and stated that he thought the Board should submit a letter.

Chairman Anderson stated that it could be approached from two directions: 1) submit a letter to NCDOT, and 2) get a resolution support from the RPO.

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

Parallel Conditional Use Rezoning No. 128 – Harrison Huggins, applicant: A request to rezone 1.7-acres from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit an open-air garden center. The property is located on the west side of Startown Road, about 1,800 feet north of the southern end of Ritchie Road, in Lincolnton Township.

Randy Hawkins presented photos of the driveway to the proposed center and applicant's house, and the greenhouse on the property.

Commissioner Mitchem asked for the definition of an open air garden center. Randy Hawkins stated that, rather than being an enclosed area, it would either have ground cloth with the plants and products displayed on it, or shade cloth overhead that would be open on three sides. Mr. Hawkins stated that the greenhouse would not be open to the public, but merely for growing the plants.

John Pagel, Planning Board, asked if the applicants were already operating the business. Randy Hawkins stated that a former Planning Board member noticed a sign advertising the business, but he was unsure if they were operating. The applicants stated that they had been in business for one month.

Harold Howard Jr., Planning Board, asked if the greenhouse was legal. Randy Hawkins stated that it was for growing plants, but not for selling them, hence the need for the open air garden center.

Commissioner Funderburk asked if the open air concept was similar to those on Robinson Road in Hickory. Randy Hawkins stated that it was, explaining that one of the issues was that, for any building customers might be entering, the commercial building code would have to be met.

Jerry Geymont, Planning Board, asked if staff considered this *spot zoning*. Randy Hawkins stated that it was clearly *spot zoning*, but you have to determine if there is a reasonable basis for it. Mr. Hawkins, referring to Goal 5 of the Land Use Plan, stated that you could argue that the use is not incompatible because the use is compatible with the rural area.

Larry Craig, Planning Board, asked what the applicants could sell, by right. Randy Hawkins stated that they could sell plants, mulch, fertilizer and bagged goods.

Darrell Harkey, Planning Board, asked if there had been any complaints. Randy Hawkins stated that there had not, other than the call he received from a former Planning Board member who saw the sign and did not remember a rezoning in that area. Mr. Harkey remembered a previous business that operated there. Mr. Hawkins stated that was one of the reasons the applicants thought it was okay to open a business there.

Chairman Anderson asked if there were any *ex parte* discussions which needed to be revealed. Hearing none, Chairman Anderson opened the public hearing concerning Parallel Conditional Use Rezoning No. 128 – Harrison Huggins, applicant.

Harrison Huggins stated that he and his wife spent a lot of money renovating the property and the house, and that their vision for the garden center was to sell nursery stock, pots and some yard art. Mr. Huggins stated that both he and his wife had lost their jobs due to downsizing and store closings, and that they were trying to create a livelihood for their retirement.

Jannette Huggins stated that they bought the 17-acre property, with the assurance by their realtor that it would be okay to have a business, since there had previously been one there. Ms. Huggins stated that they opened their business last November, but had not had a grand opening.

Frank Ritchie stated that he lived approximately 1-1/2 miles below the Huggins'. Mr. Ritchie stated that the property looked terrible when they bought it, and that they improved its appearance. Mr. Ritchie stated his support of their endeavor.

Bob Sell stated he was a neighbor of the Huggins, on the north side of Startown Road. Mr. Sells stated that the applicants have renovated their property over the past year, and that they've done a tremendous job on the house and the property. Mr. Sell wanted to express his support of them and their proposed business.

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

Parallel Conditional Use Rezoning No. 129 – Mark Robinson, applicant: A request to rezone a 2.9-acre parcel from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit mini-warehouses. The property is located on the north side of Hwy. 150, about 500 feet west of Quinlan Lane, in Ironton Township.

Chairman Anderson asked if there were any *ex parte* discussions which needed to be revealed. Hearing none, Chairman Anderson opened the public hearing concerning Parallel Conditional Use Rezoning No. 129 – Mark Robinson, applicant.

Mark Robinson stated that he had been a resident of East Lincoln ten years. Mr. Robinson stated that there are currently 9 neighborhoods consisting of 1,818 homes within a 5-mile radius, and more are planned. Mr. Robinson described self-storage facilities as very good neighbors because they're quiet and they create very little traffic (normally 7 cars per 100 units per day). He stated there is no impact on schools, it is a great tax revenue, and it is also an excellent buffer between zones. Mr. Robinson stated that the site plan, which would be binding with the landscape, requires no fencing, since the entire facility will be encompassed by the buildings. He presented an artist's rendering of the front of the building as it would appear from the street, noting that he would be willing to make that binding also. He stated that he plans to brick the entire front of facility, and to landscape to meet code for screening. Mr. Robinson stated that it would be professionally operated. He stated that he wants it to be highly visible and aesthetically pleasing so that it will be an asset and enhancement to the community.

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

Selection of Planning Firm to Perform Land Use Plan Update – Brad Dyer: Brad Dyer presented the information on the selection of a planning firm to perform the Land Use Plan Update. Mr. Dyer stated that a total of fifteen proposals were mailed, five of which were returned. On January 19, the Land Use Plan Selection Committee met and discussed the five firms that responded. Based on this discussion, the committee recommends that Centralina Council Of Government perform the Land Use Plan Update on small area plans.

UPON MOTION by *Commissioner Mitchem*, the Board voted unanimously to accept the recommendation that Centralina Council of Government be retained to conduct the update for the current Land Use Plan.

Bill Duston, a representative of Centralina Council of Government, thanked the Board for choosing them. Mr. Duston stated that they have a long history of providing service to the County, and are currently in the County with the RPO. He stated that he felt they could do a more than adequate job, and looked forward to working with the County and staff.

Other Business:

Stan Kiser, County Manager, updated the Board on the following issues:

- 1) Memo on Fund Balance – Mr. Kiser deferred to *Leon Harmon, Director of Finance*, who updated the Board.

Commissioner Mitchem asked Representative Kiser if he saw anything that would prevent the lottery from occurring. *Representative Kiser* stated that a lawsuit is currently pending, and that the lottery probably wouldn't produce as much revenue as expected. *Commissioner Patton* asked what the chances were, once the lottery revenue did start, of funding being cut in other areas to offset that. *Representative Kiser* stated that was the warning he made on the House floor. He stated that it was currently called an Education Budget, but that the next group that came along could redirect that money for other purposes. Representative Kiser stated that he had seen projections showing that Lincoln County Schools' construction might receive as much as \$1.7 million a year.

- 2) Update on the Bank of America building
- 3) Continuation of Reciprocal Water Agreement with the City of Lincoln – Mr. Kiser stated that it will be on the Board's February 20th Agenda – Mr. Kiser deferred to *Steve Gilbert, Director of Public Utilities*, who updated the Board on price increases, noting that this would also be brought to the Board for approval at the February 20th meeting. Mr. Gilbert also updated the Board regarding the sewer to be constructed to serve the school on Rock Dam Road.
- 4) Convenience Sites – Mr. Kiser deferred to Steve Gilbert, Director of Public Utilities, who presented handouts indicating fees charged by surrounding counties to the Board. *Commissioner Mitchem* suggested that Mr. Gilbert get more information from these counties indicating the pros/cons of their methods. Discussion included cash being kept at convenience sites, the safety of convenience site employees, signage, and how much the County is willing to spend to implement a different system.

Commissioner Funderburk stated that he spoke to a couple this past weekend, who had traveled through Lincoln County approximately five years ago. He stated that they commented on how visible the improvement of the economy was just by driving through the county since that time.

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