

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
TUESDAY, SEPTEMBER 13, 2005

The Lincoln County Board of County Commissioners and the Planning Board met for a work session on September 13, 2005, which was recessed from September 12, 2005, at the Lincoln County EMS Base, 720 John Howell Memorial Drive, Lincolnton, North Carolina at 6:00 PM.

Commissioners Present:

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

Planning Board Members Present:

Dean Lutz, Chairman
Louis McConnell
John Pagel
Ken Hovis
Harold Howard, Jr.
Terry Whitener

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Randy Hawkins, Zoning Administrator
Brad Dyer, Associate Planner
Kelly Atkins, Director of Building and Land Development
Candi Cornwell, Associate Zoning Administrator
Delores Alfaro, Administrative Secretary
Cheryl Burgess, Lincoln County Homebuilders Association President

Call to Order: Chairman Anderson called the September 13, 2005 meeting, which was recessed from September 12, 2005 to order.

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

Kelly Atkins thanked everyone for being in attendance at the meeting. He stated that the Board appointed a Growth Management Committee that has been studying the APFO. They have recommended approval of the Synthesis Report, which will come before the Board in October.

Randy Hawkins presented the following questions to consider:

- What kinds of alternative revenue sources does Lincoln County currently have in place?
- What is your long term vision for Lincoln County?
- How should Lincoln County plan financially for its long-term needs, particularly for schools?
- How does Lincoln County connect development decisions to the impact of critical public resources, such as schools and public utilities and also maintain quality of life?

He also presented the following alternative growth strategies and revenue sources that have been studied or adopted.

- Increase minimum lot size (Adopted)
- PUD over 50 lots shall apply for rezoning and Conditional Use Permit (Adopted)
- 20 to 50 lots shall submit application to the Planning Board for consideration (Adopted)
- Property taxes (Have in place)
- Impact fees
- Real Estate Transfer Tax
- APFO (Currently drafting)
- Growth Boundaries
- Moratorium
- School Enrollment Caps
- Caps on housing permits

Brad Dyer presented the following information concerning the Adequate Public Facilities Ordinance:

- Definition- an APFO ties or conditions development approvals to the availability and adequacy of public facilities. The APFO would be primarily intended to regulate the timing, and not the location or quality of development.
- Subdivision approval is the basic control for addressing the adequacy of public facilities for residential projects.
- An APFO controls the timing of new development based on an adopted and realistic Capital Improvement Plan (CIP).
- The CIP may include needs associated with growth, for example, schools, public utilities, recreation, etc...
- Once an APFO ordinance is created each proposed development would be subjected to the adequacy of County Schools and Water/Sewer.
- If the proposed subdivision exceeds the level of service adopted by the county, the developer would have the following options: 1) **Wait** until the level of service is adequate per the CIP, 2) **Contribute** (per the adopted formula) to offset the

impact of the proposed subdivision, 3) **Lower** the density to a point that causes “no” additional impact on the existing area, 4) **Withdraw** the plan altogether, 5) **Relocate** proposal to different area of the county.

- An LOS (level of service) will be proposed for each public facility and will be addressed in the comprehensive plan including education and public utilities.
- Growth controls must be reasonable and nondiscriminatory. They should be the product of careful study and should be reexamined constantly with a view toward relaxing or ending them. Good faith efforts to increase the capacity of county services and should accompany growth controls.
- An APFO will not eliminate the need for taxation; however an APFO will better manage growth by making the determination that adequacy and offset the cost(s) associated with growth.

Randy Hawkins reviewed the following cons of an APFO.

Cons (Arguments against)

- **Passing the buck-** If developer elects to contribute to the inadequacy; the cost(s) will be forwarded to the homebuyer.
- **Affordability-** Adverse impact on housing affordability. Drives up the market prices.
- **City growth-** If county has APFO and city doesn’t, the city will experience more growth.
- **All taxpayers-** Infrastructure is the responsibility of the community as a whole, not just the developer.
- **Slow-** Growth could slow to an undesirable level
- **Complicated-** The administration of an APFO (calculation, level of service, collections, etc...) (may get complicated and technical causing the need for additional staff)
- **Jobs-** Construction creates many jobs in Lincoln County, and this may cause layoffs.
- **Houses-** Houses pay their own way

Brad Dyer presented the following pros that have been discussed concerning an APFO.

Pros (Arguments for)

- **Adequacy-** All proposed developments (with a few exemptions) before being allowed to develop would test adequacy.
- **Flexible-** If an area of the county is over capacity in the schools; the developer would have several options to consider. (1) Wait (2) Contribute (3) Relocate (4) Lower proposed density (5) Withdraw application
- **Financial-** Could ease pressure on the county’s financial resources
- **Alternative-** Provides an alternative revenue source in addition to property taxes
- **Growth-** Better manage school growth (subdivisions = school children)
- **Vision-** Helps substantiate the CIP (Clear view for the future)
- **Legislation-** Doesn’t require special legislation
- **Teamwork-** Provides a common goal for the Board of Education and BOC (providing adequate space and manage the number of new students)

- **Infrastructure**- Helps determine the future needs of water and/or sewer (public utilities)
- **Quality**- Would allow staff to better plan for the future (small area plans)

Kelly Atkins reviewed the following timeline with the Board.

Probable Timeline (As of 9-13-05)
Comprehensive Plan and APFO

September 13th- Work Session (Q & A) session for the BOC and Staff. Lincoln County EMS Base at 6:30 PM (Tyson Smith & Michael Lauer telephone conference.)

September 21st - APFO & MOU drafts to staff from consultants (for review by County, School District and Water & Sewer Staff)

September 26th - Comments back to consultants from staff

September 30th - Staff to transmit APFO & MOU to Growth Management Committee

October 3rd- Planning Board and BOC will consider recommended comp plan amendments and Synthesis Report. Public Hearing. (Would like to bring back recommendation to the BOC same night from the PB)

October 12th - Growth Management Committee meeting to consider APFO/MOU (recommendation to PB and BOC)

November 7th - Planning Board and BOC to consider APFO and MOU (adoption process)

*****This timeline is contingent on several factors: *****

- 1) School Board adopting MOU to be sent to the BOC (timely fashion)
- 2) Planning Board not tabling the amendments to the comp plan and/or the MOU/APFO
- 3) Expeditious review of Consultant drafts by staffs
- 4) Unknown factors

Kelly Atkins initiated a conference call to Tyson Smith and Michael Lauer.

Chairman Anderson asked if the APFO was a tried and true method.

Tyson Smith stated that it is used extensively in Florida and Maryland and is used some in North Carolina as a way to manage growth and infrastructure. He stated that they have found that growth will not be slowed or stopped by the APFO.

Michael Lauer added that Florida is now mandating that schools be included in APFO's.

Chairman Anderson asked about punitive.

Michael Lauer stated that any mitigation is proportionate to the share of the cost. He stated that you cannot ask developers to pay for more than their fair share. He stated that in the Fort Mill, South Carolina School District, impact fees have made costs go up, but it has not slowed down growth. He stated that avoiding these fees shifts growth costs to existing taxpayers. Mr. Lauer stated that someone has to pay for the new capital and mitigation is for capital costs alone.

Chairman Anderson stated that Lincoln County has one of the largest debts per capita in North Carolina. He stated that the county cannot continue passing school bonds.

Cheryl Burgess asked what percentage of developers pay the fees versus waiting.

Michael Lauer stated that nobody really keeps records as to who does not submit applications because of the fees. He stated that none of the jurisdictions with APFO's have stopped growth. He stated that there is normally a reason developers are developing a certain area and the APFO does not change their mind.

Kelly Atkins asked for a mitigation cost estimate.

Michael Lauer stated that costs are continually going up. He stated that the typical cost per household is \$6900 to \$7300.

John Pagel asked if this has been applied threshold or across the Board.

There was a discussion concerning "exempt" situations - less than 5 homes, less than 2500 square feet not subject to APFO.

Chairman Anderson asked with regard to schools, if subdivision were tested against 100% capacity.

Michael Lauer stated that they tested for 100% capacity and with the development in the pipeline, it will exceed this. He stated that the second test was at 115% capacity. He stated that even if it is mitigated, there will be no seats for children.

There was a discussion concerning water and sewer in the APFO.

Commissioner Patton asked if the process has survived litigation in North Carolina.

Tyson Smith stated that there is a case in Durham County with impact fees. Currituck and Cabarrus Counties currently have APFO's. Mr. Smith stated that there is not a lot of litigation in North Carolina. He said that some states have more thorough case law to guide them, but not in North Carolina.

The Board discussed Recreation in the APFO. Kelly Atkins stated that if the Board adopted an APFO and wanted to add Recreation later, it would be fairly simple to amend the Ordinance.

Michael Lauer agreed with Mr. Atkins that it is relatively easy to add to APFO's in the future. He stated that the Board is not likely to say no to future development due to the fact that there aren't enough recreation facilities. He stated that fire service and EMS are better to use. He stated that this is why only water, sewer, and schools were chosen for this. He stated that Parks and Recreation also has no Capital Improvement Plan for a starting point.

Mr. Lauer stated that the schools CIP is in need of an update in the next year or so.

Chairman Anderson stated that it should be understood that each time the Board is confronted with a new subdivision, if it meets the zoning requirements, there is no option or basis for turning them down. These subdivisions are immediately creating more demand on schools that have not been built yet.

Harold Howard, Jr. asked which are preferred: Impact Fees or APFO fees?

Mike Lauer stated that jurisdictions that have the authority impose impact fees if they've obtained "special legislation".

Commissioner Patton asked if there are any cities or counties that have had APFO's and moved away from them.

Tyson Smith stated that Montgomery County, Alabama had an APFO and dropped it because they were allowed to impose an impact fee of \$8,000 per unit.

Chairman Anderson asked if there was anything the Board needs to do for the School Board's approval of the MOU.

Kelly Atkins stated that the MOU will need to be adopted by the School Board and the recommended MOU will be forward to the BOC.

Chairman Anderson stated that the schools are in the last vestiges of their 5-year capital improvement plan and will need the next 5-year plan fairly promptly after that. He stated that the County needs to make sure they are on board with this.

Kelly Atkins stated that staff will be meeting with the School Board in the next 2 weeks for their planning session.

Commissioner Mitchem stated that the comment has been made that APFO's do not slow down growth. He asked if developers go ahead and pay these fees.

Randy Hawkins stated that most developers do not mind paying their fair share.

Commissioner Mitchem stated that in Catawba County, you have to have 2 acres to build anything. There was a discussion about this requirement in Catawba County.

Chairman Anderson stated that the Board needs to look well beyond today. He stated that there is not much to improve today, but one of the things the Board does not have the luxury of doing is nothing. He stated that this will give the Board the tool to handle growth.

Commissioner Patton stated that his only concern is that he doesn't want to keep people from buying their first house and keeping them in mobile homes.

Chairman Anderson stated that that is operating on the presumption that the charge will totally be passed onto homeowners. He stated that it will force developers and builders to pass along as much cost as they can to homeowners. The market will mitigate how much will be passed.

Commissioner Patton stated that people could buy existing homes and not pay the fee.

Kelly Atkins stated that he has been contacted by surrounding counties about the APFO that has been proposed. He stated that if other surrounding counties do an APFO, it will be a driving force to Lincoln County if we do not have one. He stated that a lot of growth came to Lincoln County when the lot size changed to 2 acres in Catawba County.

Adjourn: Chairman Anderson adjourned the meeting.

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners