

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JULY 18, 2005

The Lincoln County Board of County Commissioners met in regular session on July 18, 2005 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

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

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board

Call to Order: Chairman Anderson called the July 18, 2005 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 Funderburk, the Board voted unanimously to adopt the agenda as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

JULY 18, 2005

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| | 6:40 PM | Call to Order |
| 1. | 6:41 PM | Adoption of Agenda |
| 2. | 6:42 PM | Consent Agenda |
| | | - Budget Adjustments 1 - 15 |
| | | - Tax Requests for Refunds – More Than \$100 |
| | | June 27 – July 3, 2005 |
| | | - Tax Requests for Releases – More Than \$100 |
| | | May 16 – June 15, 2005 |

- Sponsored Group Status for Carolinas Cross Connection
- Waived Fees for Helping Hands Health Clinic
- Approval of Minutes – June 20, 2005
- Letter of Credit #42 – Eastwind Cove
- 2006 Holiday Schedule

3. 6:45 PM Public Comments
4. 7:00 PM Public Hearing – Incentive Grant for Existing Industry
5. 7:10 PM Public Hearing – Road Naming – WoodMill Winery Lane
6. 7:15 PM Lincoln County Personnel Policy
7. 7:30 PM Condemnation Appeal – Former Rhyne Mills Property – Wayne Godfrey
8. 7:45 PM Names on Water Tanks – Steve Gilbert
9. 7:50 PM Bids for Phase III Landfill Cell Construction – Steve Gilbert
10. 8:00 PM Public Works Capital Project Reports – Steve Gilbert
11. 8:10 PM Meeting Schedule for Remote, Non-agenda Meetings
12. 8:20 PM Resolution to Declare Certain Real Property Owned by Lincoln County to be Surplus Property and Authorize Sale of Such Property
13. 8:25 PM Resolution to Accept Bid and Sell Certain Surplus Real Property Owned by Lincoln County
14. 8:30 PM Finance Officer's Report
15. 8:35 PM County Manager's Report
16. 8:40 PM County Commissioners' Report
17. 8:45 PM County Attorney's Report
18. 8:50 PM Vacancies/Appointments
19. 9:00 PM Calendar
20. 9:05 PM Other Business
21. 9:10 PM Designation of Voting Delegate for NCACC Annual Conference in

Meckenburg County

22. 9:15 PM Closed Session

Recess to July 19, 2005 at 7:00 PM

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

Budget Adjustment No. 1 to budget funds for purchase of 100 East Main Street former Bank of America Building.

Budget Adjustment No. 2 for Central Services to encumber funds for van ordered in June.

Budget Adjustment No. 3 to encumber funds for vehicle and photo equipment for Sheriff's Department.

Budget Adjustment No. 4 to encumber funds for Animal Control vehicle ordered in June.

Budget Adjustment No. 5 to transfer balance of Historical Properties funds at 6/30/05 to CIP Historical.

Budget Adjustment No. 6 to carryover prior year balances in CIP fund.

Budget Adjustment No. 7 to encumber funds from previous year for Ortho project.

Budget Adjustment No. 8 for encumbrances for the water fund.

Budget Adjustment No. 9 for encumbrance for sewer district.

Budget Adjustment No. 10 to carryover balance allocated for Courthouse security improvements.

Budget Adjustment No. 11 to carryover balance of funds for Cultural Center waterproofing project.

Budget Adjustment No. 12 to carryover budget authorization Sewer District CIP.

Budget Adjustment No. 13 to carryover balance of Water Capital Projects Authorization.

Budget Adjustment No. 14 to allocated school bond funds among projects.

Budget Adjustment No. 15 for Register of Deeds for encumbrances from 2004-2005.

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (June 27, 2005 – July 3, 2005)

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

NAME	YEAR	DIST	A/C#	AMOUNT
R & R MacLeod	2005	DFD	32032	240.84
TOTAL				\$ 240.84

Public Comments: Chairman Anderson advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

Being no one wishing to speak, Chairman Anderson declared the public comments section closed.

Public Hearing – Prospect Company: Barry Matherly, Director of Lincoln Economic Development, presented a request from FMS Enterprises USA, Inc for an Incentive Grant. FMS shall invest \$4,100,000, of which \$2,870,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy. FMS shall provide at least 20 new jobs paying average hourly wages of \$10.00 per hour. Lincoln County will provide cash grants to FMS of \$11,566.10 per year for a five-year period.

Chairman Anderson opened the public hearing concerning the Incentive Grant for FMS Enterprises USA, Inc..

Being no one wishing to speak, Chairman Anderson declared the public hearing closed.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to adopt the Resolution and Incentive Grant for FMS Enterprises USA, Inc.

Public Hearing – Road Naming – WoodMill Winery Lane: Leroy Buff presented a request from Larry Cagle for a road which will have provide access to the winery. The proposed road name is WoodMill Winery Lane.

Chairman Anderson opened the public hearing for the Road Naming.

Being no one wishing to speak, Chairman Anderson declared the public hearing closed.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to accept the name Woodmill Winery Lane.

Lincoln County Personnel Policy: Audrey Setzer, Personnel Director, presented the Board with the Lincoln County Personnel Policy. She stated that the Personnel Policy has not been updated, in its entirety since 1976.

UPON MOTION by Commissioner Patton, the Board voted unanimously to adopt the Personnel Policy with a September 1, 2005 effective date.

Condemnation Appeal: Wayne Godfrey, Chief Building Inspector, stated that this condemnation started on February 11, 2005 and it is presently in the fifth month. General Statutes allow 50 days for resolution to the dismantling of the building. The actual condemnation was the result of a salvaging operation and there were legal problems.

Timothy Dalton stated that he was here last time explaining the legal problems he has run into and the injunction. He stated that he has a motion to get in front of Judge Bridges on September 26, 2005 at 10:00 a.m. The motion was filed this afternoon. Mr. Dalton stated that he has been in Lincolnton three times looking for an Attorney and he has an appointment with an Attorney the first week of August. Mr. Dalton stated that he has sold his coin collection to take care of this.

Chairman Anderson stated that if the injunction is lifted what Mr. Dalton's plans are.

Mr. Dalton stated that he will be here within 5 days to get started. The first week will be getting equipment here and cleaning up the mess. It will take 60 days to have the building down and 90 – 120 days to remove everything from the site.

Mr. Dalton presented a copy of the motion, which was filed at 3:54 this afternoon. Jeff Taylor reviewed the motion.

Commissioner Moore raised concerns about safety issues with the building.

UPON MOTION by Commissioner Moore, the Board voted unanimously that the condemnation by Wayne Godfrey be sustained.

Names on Water Tanks: Steve Gilbert stated that several meetings ago, the Water Tank Maintenance Contract was approved with Utility Service Company. The tanks are now ready to be repainted – Denver first, then Pumpkin Center and Northbrook. Since the exteriors are being repainted, there is an opportunity to have some identification placed on the tanks. The new tanks at Optimist Club and Car Farm have LINCOLN COUNTY painted on them in block letters and the Northbrook tank is marked NORTHBROOK. Mr. Gilbert asked if there is a desire to have the Denver and Pumpkin Center tanks identified and if so, in what manner. Painting these names on the tanks will cost a few hundred additional dollars.

UPON MOTION by Commissioner Funderburk the Board voted unanimously that the 2 remaining tanks have Denver and Pumpkin Center painted on them and the ones already identified remain so identified.

Public Works Capital Project Reports: Steve Gilbert presented the Capital Project Reports for the Public Works Department.

Meeting Schedule for Remote, Non-Agenda Meetings: The Board set the following dates for meetings:

August 2 at 7:00 p.m. at East Lincoln Recreation Center
November 14 at 7:00 p.m. at Citizens Center.

A date will be set in December of the West Lincoln meeting.

Bids for Phase III Landfill Cell Construction: Steve Gilbert presented the following information concerning bids for Phase III Landfill Cell Construction.

On July 6, 2005, sealed bids were opened for the Phase III Construction at the Lincoln County Landfill. This project will construct a new lined cell with a leachate containment and pumping system, and will have approximate five years capacity. Three bids were received as listed below:

Morgan Corporation	\$4,969,311.11
Thalle Construction Co.	\$5,549,483.63
Blythe Construction, Inc.	\$5,800,258.28

The project's engineers, S & ME, Inc of Charlotte, have reviewed the bids and, while the prices are somewhat higher than their last estimate, they feel the bids are in line with current construction costs, and they are recommending the bids be approved as submitted.

Based on the bids received on July 6, 2005, for the Phase III Construction of the Lincoln County Landfill, Public Works recommends the low bid of \$4,969,311.11 submitted by Morgan Corporation be accepted and approved.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve and accept the bid of Morgan Construction at \$4,969,311.11.

Resolution to Declare Certain Real Property Owned by Lincoln County to be Surplus Property and Authorize Sale of Such Property: **UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to approve the Resolution.

**RESOLUTION TO DECLARE CERTAIN REAL PROPERTY
OWNED BY LINCOLN COUNTY TO BE SURPLUS
PROPERTY AND AUTHORIZE SALE OF SUCH PROPERTY**

WHEREAS, Lincoln County is the owner in fee simple of a certain tract of real property consisting of approximately 20.319 acres, such tract being the tract designated as Parcel 13 on the Master Plan for the Lincoln County Industrial Park; and

WHEREAS, the said tract is generally located between U. S. Highway 321 and the end of Progress Drive in the Lincoln County Industrial Park and has 16.23 usable acres north of the sanitary sewer easement which crosses the property; and

WHEREAS, the Lincoln County Board of Commissioners believes that the said tract should be declared surplus property and sold; and

WHEREAS, the said tract has been previously offered for sale by Lincoln County through the Lincoln Economic Development Association for \$15,000.00 per acre; and

WHEREAS, Lincoln County has received an offer to purchase the said tract for the sum of \$324,600.00, or \$20,000.00 per acre for the 16.23 usable acres, which offer has been secured by a deposit with the County of the sum of \$16,230.00, representing five percent of the bid as required by the provisions of N. C. G. S. Chapter 160A; and

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of Lincoln County and its citizens to sell the said tract, and the Board proposes to accept the said bid of \$324,600.00, or \$20,000.00 per acre, subject to verification of the exact acreage by survey and compliance with the procedures of N. C. G. S. Chapter 160A;

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

1. The Lincoln County Board of Commissioners declares the tract of real property consisting of approximately 20.319 acres consisting of Parcel 13 as described on the Master Plan for the Lincoln County Industrial Park, to be surplus property and authorizes and directs the sale of said tract as hereinafter resolved.

2. The Board of Commissioners acknowledges receipt of a bid to purchase said tract for the sum of \$324,600.00, or \$20,000.00 per usable acre, subject to verification of the exact acreage by survey, and further acknowledges receipt of the deposit from the bidder of the sum of \$16,230.00, representing five percent of its bid as required by the procedures of N. C. G. S. Chapter 160A.

3. The said deposit shall be forfeited and withheld by Lincoln County in the event that the bidder prematurely withdraws its bid.

4. The County Manager and Clerk to the Board are hereby directed to place an appropriate newspaper advertisement in accordance with the requirements of N. C. G. S. Chapter 160A to inform the public of the Board's action in declaring this property to be surplus and the Board's receipt of this bid and intention to sell the said property to the bidder on these terms unless its bid is upset as provided by law.

5. Any party, person, firm, or other entity wishing to place an upset bid shall file such upset bid with the Lincoln County Finance Department before the close of

business on the 10th day following publication of the newspaper advertisement herein specified.

6. Any such upset bid must comply with the following conditions:
- a. The upset bid must raise the original bid by an amount equal to at least remainder. ten percent of the first \$1,000.00 of that bid plus five percent of the
 - b. The upset bid must be made in writing and be sealed.
 - c. The purported upset bidder must deposit cash or certified funds with the Lincoln County Finance Department in an amount equal to at least five percent of its bid.
 - d. The deposits of any unsuccessful upset bidders shall be returned within five days after completion of the upset bid process. The deposit of a successful upset bidder who withdraws without completion of its purchase shall be forfeited and withheld by Lincoln County.

7. No upset bids shall be opened until after the close of business on the 10th day following publication of the newspaper advertisement herein specified. Upon opening of any upset bids and verifying receipt of a qualifying upset bid, the County Manager shall arrange for publication of a further advertisement of the receipt of such qualifying upset bid and providing for a further upset bid procedure as set forth herein.

8. Upon the passing of the ten-day upset bid period without a qualifying upset bid having been received, the highest qualifying bid received shall be deemed accepted, and the Chairman of the Board of Commissioners and the Clerk to the Board shall be authorized to execute all documents necessary to consummate the sale and conveyance of the property to the highest qualifying bidder.

9. The conveyance of the property shall occur at such reasonable time as the parties shall agree after receipt of the highest qualifying bid and shall be made contemporaneously with receiving cash or certified funds in the full amount of the purchase price.

10. In the event that no qualifying upset bid is received by the close of business on the 10th day following publication of the aforesaid notice, the offer of \$324,600.00, or \$20,000.00 per usable acre, referred to hereinabove shall be accepted and the said property sold and conveyed to the bidder on the terms stated herein.

11. Notwithstanding any other provision in this resolution, the Board reserves the right to reject all bids.

12. This resolution shall be effective upon adoption.

This 18th day of July, 2005.

Thomas R. Anderson, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

Resolution to Accept Bid and Sell Certain Surplus Real Property Owned by Lincoln County: UPON MOTION by Commissioner Patton, the Board voted unanimously to adopt the Resolution.

**RESOLUTION TO ACCEPT BID AND SELL
CERTAIN SURPLUS REAL PROPERTY
OWNED BY LINCOLN COUNTY**

WHEREAS, Lincoln County is the owner in fee simple of a certain tract of real property consisting of approximately 15 acres immediately adjacent to and west of the property purchased by TKC LIV, LLC, in 2003 along Lincoln County Parkway in the Lincoln County Industrial Park in Lincoln County, North Carolina; and

WHEREAS, the Lincoln County Board of Commissioners has declared this property to be surplus and has received a bid to purchase said property for the sum of \$20,500.00 per acre, or approximately \$307,500.00, and has advertised such bid in accordance with the provisions of N.C.G.S. 160A-269 and allowed sufficient time for upset bids; and

WHEREAS, no upset bid having been received and the time designated for upset bids having run, the Board now wishes to accept the said bid and sell the property to the bidder in accordance therewith;

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

1. The Lincoln County Board of Commissioners hereby accepts the bid of \$20,500.00 per acre, or \$307,500.00, for the tract of real property referenced above and authorizes the Chairman and staff to execute all necessary documents to complete the sale of the said property to the bidder as aforesaid.

2. The conveyance of the property shall occur at such reasonable time as the parties shall agree and shall be made contemporaneously with receiving cash or certified funds in the full amount of the purchase price.

3. This resolution shall be effective upon adoption.

This 18th day of July, 2005.

Thomas R. Anderson, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

Finance Officer's Report: Leon Harmon, Finance Officer, presented the budget performance report for June, 2005.

County Manager's Report: Stan Kiser presented the County Manager's Report. He presented information on the facility transition to the Bank of America building.

Mr. Kiser presented a memo concerning Home Health Transitions. The memo was concerning transition of Home Health to a non-profit status. There were several questions that were raised including the following:

- 1 – Who will pay the start up cost for Home Health? This would include attorney fees and any other cost associated with getting the new agency up and running.
- 2 – After the start up cost are obtained there will still be the need for the agency to have some initial funds on hand for nor daily operations such as paying bills and payroll until payments from clients begin to come in.
- 3 – Is there any way the new agency could have access to County Insurance for medical liability and state contracts for purchasing?
- 4 – Who will pay for what is referred to as “tail” coverage?
- 5 – Can the new agency keep its current name?
- 6 – Can the new agency keep its current logo?
- 7 – Can the agency keep the same phone numbers?
- 8 – Can the employees at the new non-profit still participate in the County's health insurance pool? Does the BOC have any problem with allowing the Home Health employees to be a part of the County's health insurance? The new home health agency will of course have to pay for their coverage.

Commissioner Funderburk stated that it seems like every week something new comes out concerning Home Health.

A MOTION by Commissioner Funderburk to reinstate Home Health as a full County agency.

Chairman Anderson stated that Home Health has been given six months to move forward as a non-profit. He stated that none of the questions presented seem to be deal-breakers. He stated that it was the general consensus of the Board that Home Health needed to be a separate entity.

Commissioner Moore stated that there is a motion on the floor. She stated that if the Board votes in favor of this motion, there are some issues that will have to be addressed. She stated that she has not changed her mind and at the next meeting will bring out issues with Home Health for the protection of the taxpayers.

Commissioner Mitchem stated that the Board of Health needs to be advised that there are problems that need to be addressed.

Jeff Taylor, County Attorney, stated that the Board controls funding and instruction is under the Board of Health.

Commissioner Mitchem asked how far along the Home Health conversion to a 501c3 is.

Maggie Dollar stated that the Board of Health met Tuesday night with Attorneys

Maggie Dollar stated that billing problems have been corrected and there will be an \$80,000 profit this year.

Commissioner Patton stated that financial problems are being corrected and will continue to be corrected.

Maggie Dollar stated that they have corrected what they could and still have some factors that could be improved. She stated that there are still 3 nursing positions that have not been filled.

A MOTION by Commissioner Funderburk to reinstate Home Health funding and leave it up to the Board of Health whether it wants to remain county funded or become a 501(c)3.

Chairman Anderson stated that the question that drove the discussion is that the Board did not feel it should continue to be in the business of Home Health with the other providers available. Chairman Anderson stated that patients and citizens have a very emotional attachment to the Home Health Service. He stated that the Board did not feel this service was needed with 18 other providers.

Commissioner Patton stated that when the process started, it seemed easy enough and made sense. He stated that he feels the Board put the cart before the horse with this decision. He stated that this is a well-liked, well-respected entity. He stated that the majority of the other providers are from out-of-county.

**Vote: 3 – 2 AYES: Funderburk, Patton, Mitchem
 NOES: Moore, Anderson**

Stan Kiser and Steve Gilbert presented a draft letter to Jeff Emory concerning the agreement for the Lincoln County Industrial Park Sewer Line. It was the consensus of the Board to authorize the County Manager to send the letter to the City Manager.

County Commissioners Report: Commissioner Funderburk stated that he attended a meeting concerning services Pathways provides that have not been funded. He stated that the Gaston, Cleveland, and Lincoln Counties will be having a meeting concerning this.

County Attorney's Report: Jeff Taylor, County Attorney, stated that the majority of his report was concerning Home Health. He stated that the rest will be in closed session for a real estate matter.

Vacancies: Commissioner Funderburk presented the following vacancies.

VACANCIES

Nursing and Adult Care Home Community Advisory Committee 6
Historic Properties Commission 1

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to make the following appointments.

APPOINTMENTS

Board of Health

- Appoint Dr. Bob Hitt
- Appoint James D. Davis Jr.

Pathways

- Appoint Many Heard

Council on Aging

- Appoint Thomas Grabinski

Hospital Board

- Elizabeth (Liz) Harris

Calendar: Chairman Anderson presented the calendar for August 2005.

Other Business: Chairman Anderson stated that the Board needs to designate a voting delegate for the NCACC Annual Conference in Mecklenburg County on August 25 – 28.

It was the consensus to delegate Commissioner Moore as voting delegate.

Chairman Anderson called for a brief recess.
Chairman Anderson called the meeting back to order.

Closed Session: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to go into closed session to discuss a real estate matter that is confidential pursuant to N.C.G.S. 143-318.11.

The Board returned to open session.
Chairman Anderson advised that the Board instructed an agent with regards to real estate negotiations.

Recess: The Board recessed until July 19, 2005 at 7:00 p.m.

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners