

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, JANUARY 5, 2009**

The Lincoln County Board of County Commissioners met on January 5, 2009 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman  
Bruce Carlton, Vice Chairman  
George Arena  
James A. Klein  
Carrol Mitchem

Planning Board Members Present:

Jerry Geymont, Chairman  
Louis McConnell, Vice-Chairman  
Tom Campbell  
Karl Dearnley  
Gary Garlow  
Keith Johnson  
James Mauney  
Jeff Frushtick

Others Present:

George A. Wood, County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Kelly Atkins, Building and Land Development Director  
Randy Hawkins, Zoning Administrator  
Leon Harmon, Finance Director  
Steve Gilbert, Public Works Director  
Barry McKinnon, Sr. Utility Engineer

**Call to Order:** Chairman Patton called the January 5, 2009 meeting of the Lincoln County Board of Commissioners to order.

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

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

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt the agenda adding Item 10 – Closed Session.

**AGENDA**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**JANUARY 5, 2009**

- 6:30 PM      Call to Order
- 6:31 PM      Invocation – Commissioner Carlton
- 6:32 PM      Pledge of Allegiance
1.      6:33 PM      Adoption of Agenda
2.      6:34 PM      Consent Agenda
- Approval of Minutes
  - December 15, 2008
  - Motion to Adopt Resolution #2009-01:      A Resolution Amending the Classification and Compensation Plan for Lincoln County, North Carolina

**RESOLUTION #2009-01: A RESOLUTION AMENDING THE CLASSIFICATION AND COMPENSATION PLAN FOR LINCOLN COUNTY, NORTH CAROLINA**

THAT WHEREAS, the Board of Commissioners previously has adopted a new Classification and Compensation Plan for Lincoln County, North Carolina, which had been prepared by Condrey and Associates, Inc; and

WHEREAS, the County Manager is charged with assuring that the Plan remains current and updated; and

WHEREAS, Condrey and Associates, Inc. has recommended that the Animal Services Supervisor be changed from non-exempt (hourly) to exempt (salaried) because the position now has enough executive duties to qualify for the executive exemption under the provisions of the Fair Labor Standards Act; and

WHEREAS, the County Manager and Human Resources Director have recommended a change in the grade level for this position to reflect these changes;

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

Section 1. That the Position Classification and Compensation Plan for Lincoln County, North Carolina is hereby amended as follows:

Change the Animal Services Supervisor from Non-exempt Status to Exempt Status, and change the Grade for 117 to 119.

Change the incumbent in that position to the same step he currently occupies on Grade 117 to Grade 119.

Section 2. That this resolution shall become effective on January 17, 2009.

Adopted this the 5<sup>th</sup> day of January, 2009.

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Alex E. Patton  
Chairman, Board of Commissioners

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Attested by: Amy S. Atkins  
Clerk to the Board

- Motion to Adopt Resolution #2009-02: Resolution Supporting the Funding of Carolina Land and Lakes (CL&L) RC&D

RESOLUTION #2009-02: RESOLUTION  
SUPPORTING THE FUNDING OF CAROLINA LAND  
& LAKES (CL&L) RC&D

WHEREAS, Lincoln County is located within the geographic service area of CL&L Resource and Conservation & Development (RC&D); and

WHEREAS, CL&L RC&D plays an important role in protecting the environment in a way that improves the local economy and standard of living in Lincoln County; and

WHEREAS, the Lincoln County Board of Commissioners believes that natural resources conservation continues to be of prime importance in North Carolina; and

WHEREAS, CL&L RC&D provides technical assistance and project administration for vital resource projects; and

WHEREAS, the lack of adequate Federal funding will cause CL&L RC&D to no longer have the assistance of a full-time coordinator.

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners encourages and supports any and all efforts to secure adequate Federal funding to fully staff CL&L RC&D, allowing that organization to continue to serve Lincoln County and this region of North Carolina.

Adopted this 5<sup>th</sup> day of January, 2009.

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Alex E. Patton, Chairman  
Lincoln County Board of Commissioners

ATTEST:

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Amy S. Atkins  
Clerk to the Board

3. 6:36 PM Public Hearing – Zoning Cases – Randy Hawkins  
  
ZMA #568 Jonathan Avery, applicant (Parcel ID# 14663) A request to rezone 1.7 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). The property is located on the west side of Fringewood Lane about 500 feet north of Hwy. 27 in Howards Creek Township.
4. 7:00 PM Motion to approve the lowest bid from RBC Bank at 3.35% for the 36-month financing of \$140,000 for Sheriff's Patrol Vehicles – Leon Harmon
5. 7:10 PM Motion to Allocate the remaining sewer flow capacity in the Forney Creek Wastewater Treatment Plant as recommended by the County Manager in his December 29, 2008 Memorandum – George Wood
6. 7:20 PM Odor Control Proposal for Pump stations #3, #4, and #5 – Steve Gilbert
7. 7:30 PM Public Comments
8. 7:45 PM Appointments – Commissioner Carlton
9. 8:00 PM Other Business

Adjourn

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

- Approval of Minutes
- December 15, 2008

- Motion to Adopt Resolution #2009-01: A Resolution Amending the Classification and Compensation Plan for Lincoln County, North Carolina
- Motion to Adopt Resolution #2009-02: Resolution Supporting the Funding of Carolina Land and Lakes (CL&L) RC&D

Chairman Patton welcomed Jeff Frushtick to the Planning Board.

**New Business/Advertised Public Hearings:**

Chairman Patton announced that this was the date, Monday, January 5, 2009, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on December 26, 2008 and January 2, 2009.

**NOTICE OF PUBLIC HEARINGS**

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, January 5, 2009, at 6:30 p.m. to consider the following matter:

ZMA #568 Jonathan Avery, applicant (Parcel ID# 14663) A request to rezone 1.7 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). The property is located on the west side of Fringewood Lane about 500 feet north of Hwy. 27 in Howards Creek Township.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the James W. Warren Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

**Zoning Map Amendment No. 568 – Jonathan Avery, applicant:** Randy Hawkins presented the following information concerning Zoning Map Amendment No. 568.

The applicant is requesting the rezoning of 1.7 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). This property is proposed to be subdivided from a 10.3-acre tract owned by the applicant's father.

This property is located on the west side of Fringewood Lane about 500 feet north of Hwy. 27 in the Howards Creek Township. It is adjoined by property zoned R-SF and R-T. Land uses in this area are primarily residential, with a mix of site-built houses and manufactured homes. The Lincoln County Land Use Plan maps the area that includes this parcel as Community Business. The surrounding property is classified as Suburban Residential.

Chairman Patton opened the public hearing concerning Zoning Map Amendment No. 568 – Jonathan Avery, applicant.

Jonathan Avery, applicant, stated that his land is zoned where he cannot put a mobile home on it. He stated that he cannot afford a modular or stick built home. He asked the Board to approve the rezoning.

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

The Planning Board recessed their meeting on the 2<sup>nd</sup> floor balcony.

Chairman Patton welcomed the Lincoln County Law and Government Explorer Post to the meeting tonight.

**Motion to approve the lowest bid from RBC Bank at 3.35% for the 36-month financing of \$140,000 for Sheriff's Patrol Vehicles – Leon Harmon:** Chairman Patton introduced the following resolution which was read:

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$140,000.00 WITH RBC BANK (USA) TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT FOR USE BY THE COUNTY OF LINCOLN, NORTH CAROLINA, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

BE IT RESOLVED by the governing body for the County of Lincoln, North Carolina (the "Unit"):

The governing body of the Unit does hereby find and determine:

The County of Lincoln proposes the acquisition of certain equipment, which may include fixtures as more fully described in the hereinafter mentioned Contract (collectively, the “Equipment”);

After consideration, the governing body of the Unit has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;

Pursuant to Section 160A-20, the Unit is authorized to finance the acquisition of personal property, including fixtures, by installment contracts that create a security interest in the property financed to secure repayment of the financing; and

RBC Bank (USA) (“RBC Bank (USA)”) has proposed that RBC Bank (USA) enter into an Installment Financing Contract with the Unit to finance the Equipment pursuant to which RBC Bank (USA) will lend the Unit then amount of \$140,000.00 (the “Contract”) and a related Escrow Agreement between the Unit and RBC Bank (USA) (the “Escrow Agreement”).

The governing body of the Unit hereby authorizes and directs Leon Harmon to execute, acknowledge and deliver the Contract and Escrow Agreement on behalf of the Unit in such form and substance as the person executing and delivering such instruments on behalf of the Unit shall find acceptable. The Clerk is hereby authorized to affix the official seal of the County of Lincoln to the Contract and the Escrow Agreement and attest the same.

The proper officers of the Unit are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Contract and the Escrow Agreement.

Notwithstanding any provision of the Contract or the Escrow Agreement, no deficiency judgment may be rendered against the Unit in any action for breach of a contractual obligation under the Contract or the Escrow Agreement and the taxing power of the Unit is not and may not be pledged directly or indirectly to secure any moneys due under the Contract, the security provided under the Contract being the sole security for RBC Bank (USA) in such instance.

The Unit covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the “Code”) as required so that interest on the Unit’s obligations under the Contract will not be included in the gross income of RBC Bank (USA).

This Resolution shall take effect immediately upon its passage.

Upon motion of Arena, seconded by Klein, members of the governing body, the foregoing resolution entitled **“RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$140,000.00 WITH RBC BANK (USA) TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH”** was passed by the following vote:

Ayes: Commissioners Patton, Carlton, Arena, Klein and Mitchem.

Nays: none.

PASSED AND ADOPTED this 5th day of January, 2009.

**Motion to allocate the remaining sewer flow capacity in the Forney Creek Wastewater Treatment Plant as recommended by the County Manager in his December 29, 2008 Memorandum – George Wood:** Mr. Wood presented a memorandum to the Board along with a spreadsheet concerning flow allocation. He recommended allocating the remaining flow capacity in the Forney Creek WWTP as shown on the spreadsheet, which deletes any flow capacity for the Carolina Ridge development due to the fact that their flow acceptance letter is now expired.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the allocation of the remaining sewer flow capacity in the Forney Creek Wastewater Treatment Plant as recommended by the County Manager.

**Odor Control Proposal for Pump stations #3, #4, and #5 – Steve Gilbert:** Steve Gilbert presented a proposal from Siemens Technologies for odor control systems at Pump Stations 3, 4, and 5. Mr. Gilbert recommended Option 2, which will serve us the best. This option involves the installation of a chemical drip system at Pump Station #3 on Blades Trail near Burton Lane, a drip system at Pump Station 5 on Lakeshore Road South, and chemical biofilters at pump stations 3 and 4. The cost of this option is \$3,800 per month and a one-time mobilization fee of \$3,100. This arrangement is similar to the lease agreement already in place for pump stations 11, 12, and 28.

Commissioner Klein asked if leasing the equipment is the only option. Mr. Gilbert stated that this is the only option with Siemens.

Commissioner Arena asked how these compare to what is at pump station 12. Mr. Gilbert stated that at pump station 12, there is the biofilter. The drip systems are at 28 (Burton Lane) and 11 (west of Hwy 16). Those combine and run into pump station 12, so by the time it reaches pump station 12, it has been fully treated with the chemical drip.

Commissioner Arena stated that during periods of high rain, there is still odor at pump station 12. Mr. Gilbert stated that he will be speaking with Siemens about this.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the odor control proposal for pump stations #3, #4, and #5.

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



Tom Daniel, of Westport Lakeside Development, LLC, spoke concerning sewer capacity issues in East Lincoln County. Mr. Daniel respectfully requested that our county staff, County Manager, and elected officials consider very carefully the actual flows, as regulated by the State, when denying viable approved projects, ready to go to construction, the opportunity to move forward with their plans, which are essential to the County's continued growth and economic viability.

Allen Brotherton spoke concerning sewer capacity issues in East Lincoln County. He stated that after meeting with Mr. McKinnon, they are fine and will not proceed any further in the courts.

Being no other speakers, Chairman Patton declared public comments closed.

**Appointments – Commissioner Carlton:** Commissioner Carlton presented the following vacancies and appointments.

**Vacancies:**

Nursing and Adult Care Home Community Advisory Committee  
LNRC  
Recreation Commission  
Voluntary Ag. District Board

**Appointments:**

Recreation Commission  
Appoint:

- Haywood Easter
- Peter Capece

Board of Adjustment  
Reappoint:

- Peter Browne
- Betty Setzer

Appoint:

- Delaine Davis to vacant seat

Historic Properties Commission

- Melany Dawn Crouse
- Mary Whisonant
- Richard Ramseur

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to appoint Haywood Easter and Peter Capece to the Recreation Commission, reappoint Peter Browne and Betty Setzer to the Board of Adjustment, appoint Delaine Davis to the Board of Adjustment, and appoint Melany Dawn Crouse, Mary Whisonant, and Richard Ramseur to the Historic Properties Commission.

**Closed Session: Closed Session:** **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to enter closed session pursuant to N.C.G.S 143-318.11

- (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.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Alex Patton, Chairman  
Board of Commissioners