

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 16, 2009

The Lincoln County Board of County Commissioners met in regular session on March 16, 2009 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M.

Commissioners Present:

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

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
Susan McCracken, Social Services Director
Erma Deen Hoyle, Parks and Recreation Director
Steve Gilbert, Public Works Director
Barry McKinnon, Sr. Utility Engineer
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the March 16, 2009 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Reverend J. V. Allen, Boger City Wesleyan Church, gave the Invocation. Chairman Patton led in the Pledge of Allegiance.

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

Commissioner Klein stated that the Board needs to clarify the instructions given to the Planning Board at the last meeting and needs to discuss a text amendment that either tables or deletes the thoroughfare overlays until the Planning Board weighs in. This will be discussed in Item 6 on the agenda.

UPON MOTION by Commissioner Arena, the Board voted unanimously to adopt the agenda as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

MARCH 16, 2009

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| | 6:30 PM | Call to Order |
| | 6:31 PM | Invocation – Rev. J.V. Allen, Boger City Wesleyan Church |
| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:34 PM | Consent Agenda <ul style="list-style-type: none">- Budget Adjustments 70, 71, 72, 73- Waived fees<ul style="list-style-type: none">- Freedom Church Christian Youth Concert- Approval of Work First Plan Revisions |
| 3. | 6:35 PM | Child Abuse Prevention Month Proclamation |
| 4. | 6:40 PM | Public Comments |
| 5. | 6:55 PM | Recommendations from Planning Board – Randy Hawkins

ZTA #571 – Lincoln County, applicant |
| 6. | 7:10 PM | Final Discussion on UDO Implementation |
| 7. | 7:35 PM | Public Hearing - Community Transportation Program (CTP)
Application – Ron Rombs |
| 8. | 7:45 PM | Coordinated Comprehensive Public Transportation Plan – Ron Rombs |
| 9. | 7:55 PM | Vale Recreation Area – Erma Deen Hoyle |
| 10. | 8:05 PM | Playground Equipment – Beattys Ford Park
Tables and Benches – Beattys Ford and West Lincoln Parks |
| 11. | 8:10 PM | Resolution #2009-8: Resolution of Tentative Award |
| 12. | 8:15 PM | Resolution #2009-9: Resolution of Tentative Award |
| 13. | 8:20 PM | Waterline Construction Contract Award to Neill Grading of Hickory, NC |

14. 8:30 PM Capital Project Report – Steve Gilbert
15. 8:35 PM Finance Officer’s Report
16. 8:40 PM County Manager’s Report
17. 8:45 PM County Commissioners’ Report
18. 8:50 PM County Attorney’s Report
19. 8:55 PM Vacancies/Appointments
20. 9:00 PM Calendar
21. 9:05 PM Other Business

Adjourn

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

- Budget Adjustments 70, 71, 72, 73
- No. 70: Increase budget for rent to cover BOA building rent for full year & increase in Patton Bldg rent
- No. 71: To increase revenues & expenditures for BZPP Grant
- No. 72: Decrease Water & Sewer Fund revenues to reflect projected revenues and also reduce transfer to Water & Sewer CIP Fund to offset reduction in revenues
- No. 73: Budget for Carolina Thread Trail grant for Greenways & Trail Master Plan
- Waived fees
 - Freedom Church Christian Youth Concert
 - Approval of Work First Plan Revisions

REVISIONS LINCOLN COUNTY WORK FIRST PLAN FY 2010-2011

<u>Plans to Achieve the Outcomes and Goals – Page 11 – Original</u>
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Meeting Federal Participation Rate: Work First participants will have an assessment completed by a Work First social worker during their initial visit. The social worker will open a dialogue regarding what our expectations are of the participant and the expectations the participant has of the program. The social worker will, also, listen carefully to the participant’s expectations of the Work First program. From this dialogue the social worker will refer the participant to the Job Coach/Job Developer to establish a plan of action for job readiness and/or employment. Participants will be

placed in components that meet the criteria for countable hours in the Federal Participation Rate. Participation rates for the past twelve months are as follows:

Plans to Achieve the Outcomes and Goals – Page 11 - Revision

Meeting Federal Participation Rate: By using an active combination of components, activities including more work experience sites, increased individualized supports and training, increased cooperation with partners, and by utilizing our new Job Coach/Job Developer, Lincoln County plans to meet the participation rate. Work First participants will have an assessment completed by a Work First social worker during their initial visit. The social worker will open a dialogue regarding what our expectations are of the participant and the expectations the participant has of the program. The social worker will, also, listen carefully to the participant's expectations of the Work First program. From this dialogue the social worker will refer the participant to the Job Coach/Job Developer to establish a plan of action for job readiness and/or employment. Participants will be placed in components that meet the criteria for countable hours in the Federal Participation Rate. Participation rates for the past twelve months are as follows:

Benefit Diversion – Page 12 - Original

Benefit Diversion: All able-bodied two-parent and single parent households will be assessed for Benefit Diversion if they are eligible for WFFA. A thorough assessment of their present situation and their readiness for employment will be completed before considering Benefit Diversion. The assessment will include budgeting, banking education, medical needs, and housing assistance. Diversion of 1-3 months, depending on the circumstances and starting date of employment may be approved.

Benefit Diversion – Page 12 - Revision

Benefit Diversion: All able-bodied two-parent and single parent households will be assessed for Benefit Diversion if they are eligible for WFFA. A thorough assessment of their present situation and their readiness for employment will be completed before considering Benefit Diversion. The assessment will include budgeting, banking education, medical needs, and housing assistance. Diversion of 1-3 months, depending on the circumstances and starting date of employment may be approved. Following the guidelines in DSS Administration Letter 1-2008, Benefit Diversion will only be approved to meet a specified family crisis or episode of need and not for ongoing or recurrent needs.

Emergency Assistance – Page 17 -Original

Families who experience a financial emergency may be eligible for financial assistance to pay for household needs. Examples of such needs include, but not limited to, rent, utilities, and deposits. Maximum annual benefits will not exceed \$300.00.

Emergency Assistance – Page 17 - Revision

Families who experience a financial emergency may be eligible for financial assistance to pay for household needs. Examples of such needs include, but not limited to, rent, utilities, and deposits. Emergency Assistance cannot be used to cover medical care. Maximum annual benefits will not exceed \$300.00.

Services to Low Income Families (under 200% of poverty) – Page 18 - Original

We have chosen to provide services to our families at or below 200% of the Federal poverty level. We intend to provide Work First Block Grant funds for any services that will help families alleviate emergencies, support self-sufficiency, and provide for the needs of the children. Eligibility criteria will be the same as for Emergency Assistance.

Services to Low Income Families (under 200% of poverty) – Page 18 - Revision

We will provide services to our families at or below 200% of the Federal poverty level. We intend to provide Work First Block Grant funds for any services that will help families alleviate emergencies, support self-sufficiency, and provide for the needs of the children. Eligibility criteria will be the same as for Emergency Assistance.

Exemption from the Work Requirement – Page 19 - Original

- 1) Medical Exemption – completion of a Functional Capacity Evaluation.
- 2) New Birth Exemption – 3 month exemption from work requirements
- 3) Needed in home to care for incapacitated individual – physician verification required

Exemption from the Work Requirement – Page 19 - Revision

- 1) Medical Exemption – completion of a Functional Capacity Evaluation.
- 2) New Birth Exemption – 3 month exemption from work requirements per child for a lifetime of 12 months.
- 3) Needed in home to care for incapacitated individual – physician verification required

Child Abuse Prevention Month Proclamation: Chairman Patton read the following Child Abuse Prevention Month Proclamation, which Commissioner Arena made a motion to approve. The motion passed unanimously.

Child Abuse Prevention Month Proclamation

WHEREAS, preventing child abuse is a community problem that depends on involvement among people throughout the community;

WHEREAS, child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope;

WHEREAS, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community.

WHEREAS, child abuse can be reduced by making sure each family has the support they need to raise their children in a healthy environment;

WHEREAS, child abuse not only directly harms children, but also increases the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and risky behavior such as smoking;

WHEREAS, all citizens should be involved in supporting families in raising their children in a safe, nurturing environment;

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community;

THEREFORE, I do hereby proclaim, April as Child Abuse Prevention Month and call upon all citizens, individuals and corporations, to increase their participation in the efforts of preventing child abuse in Lincoln County which will strengthen the community in which we live.

Alex Patton, Chairman
Lincoln County Board of Commissioners

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.

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

Recommendation from Planning Board – Randy Hawkins: Randy Hawkins stated that Zoning Map Amendment No. 570 was tabled by the Planning Board.

Zoning Text Amendment No. 571 – Lincoln County, applicant:

ZTA #571 Lincoln County, applicant A proposal to amend the Lincoln County Unified Development Ordinance as follows:

1) Amend various sections for reorganization and clarification purposes, to correct typographical errors and references, and to add references.

PB voted 8-0 to recommend approval.

BOC voted 5-0 to approve this part of proposal and to table the rest.

2) Amend Section 2.2.1 to make "Outdoor recreation, public" a conditional use in the R-R and R-T districts.

PB voted 8-0 to recommend approval.

3) Amend Section 2.4.8.B.1 to require a minimum side yard (interior) setback in nonresidential districts as follows: 10 feet in O-R and B-N districts; 15 feet in B-G and C-B districts, 20 feet in I-L and I-G districts.

PB voted 8-0 to recommend approval.

4) Amend Section 2.5.1.B.6 to state that foundation plantings in the UTO district are not required along building facades abutting public roads.

PB voted 8-0 to table this part of proposal.

5) Amend Section 2.5.1.B.8(e), 2.5.1.C.9(e) and 2.5.1.D.6(e) to state that pedestrian walkways must include weather protection features such as awnings or arcades over the door and extending within five feet of all customer entrances.

PB voted to table this part of proposal.

6) Amend Section 3.4.1.A to exempt the construction of a two-family house on a previously approved individual lot from the landscaping requirements of Section 3.4.

PB voted 8-0 to recommend approval.

7) Amend Section 3.4.1.B.1 to state that in determining the number of plantings per square feet of landscape area required, the landscape area shall be rounded up to the next multiple of 10,000 square feet.

PB voted 8-0 to table this part of proposal.

8) Amend 3.4.1.B.2 to stipulate that the required landscaping in parking lots must be provided completely in addition to the other required landscaping.

PB voted 8-0 to table this part of proposal.

9) Amend Section 3.6.3.C.2(b) to refer to N.C. General Statutes 113A-71, to require that any parking area of one acre or more have an maximum impervious surface of 80% or that the stormwater generated by the first two inches of rain that fall on least 20% of the parking lot flow to an appropriately designed bioretention area, and to exempt parking areas in a WS-II, WS-III or WS-IV watershed.

PB voted 8-0 to recommend approval.

10) Amend 3.9.5.A.1(a) to stipulate that a maximum of 100 square feet of any wall or window may be devoted to signage (unless the principal building is set back more than 50 feet from the front building line).

PB voted 8-0 to recommend approval.

11) Amend Section 5.5.A to state that sidewalks shall be a minimum of five feet in width.

PB voted 8-0 to recommend approval.

12) Amend Section 9.7.2.A.1(b) to state that expansion of an existing conforming nonresidential structure that would not cause it to exceed 50,000 square feet shall be reviewed as a minor site plan.

PB voted 8-0 to table this part of proposal.

13) Amend Section 9.7.6.A to state that a minor deviation from an approved major site plan shall include a less than five percent increase in the floor area or number of units.

PB voted 8-0 to table this part of proposal.

14) Amend Section 9.10.1.D and 9.11.1.D to state that public facilities, major and minor utilities, and other land uses owned by Lincoln County shall be considered permitted uses.

PB voted 8-0 to revise this part of proposal and recommend approval of amending text to state that public utilities owned by Lincoln County shall be considered permitted uses. (Other public facilities owned by Lincoln County would be conditional uses.)

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve item number 1 of Zoning Text Amendment No. 571 – Lincoln County, applicant.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the statement of consistency and reasonableness associated with item number 1 of Zoning Text Amendment No. 571 – Lincoln County, applicant.

Final Discussion on UDO Implementation: George Wood stated that he is recommending tabling implementation from March 31, 2009 to May 31, 2009. After discussing with Kelly Atkins, Director of Building and Land Development, there is very little development activity in the pipeline for the Planning Board and staff. A sixty day delay will give staff time to address the issues that have been raised about the provisions of the UDO, many of which Chairman Patton listed in an email sent. Mr. Wood said he feels it is better public policy to have these issues resolved before implementation, rather than having to go through the process with amendments.

Mr. Wood stated that as part of the UDO, the Board was considering the highway overlay districts. There were three proposed districts, urban, suburban, and rural, which would be placed on a map on all the highways. The Board did not adopt that at the March 9th meeting, and instructed staff to prepare a highway district overlay only on the NC 16 area. When the amendments are brought, Mr. Wood recommended that the Board delete the language for the three highway overlay districts entirely.

Mr. Wood stated that he believes that highway overlay district regulatory system does not have enough flexibility to take into account the differences in areas of the County; and further that highway overlay districts are not needed in many parts of the County. This is a situation where some citizens in the eastern part of the county want some additional criteria above those in the existing zoning districts, as there is considerable urban growth pressure there. Most citizens in the western part of the county do not want any additional criteria, and there is limited growth taking place there. Mr. Wood said he believes highway overlay districts should only be developed in areas where growth pressures exist under normal housing market conditions, which is principally those within some areas of Catawba Township and perhaps some areas in the Ironton Township. He said work on highway overlay districts should be focused on those areas only.

Mr. Wood said that there are differences in the land development patterns along even these major highways. So, he believes that these highways should be taken in segments, and create a specific highway overlay district for each specific segment. The additional development criteria within that specific highway overlay district would only apply in that one area. For example, there may be a NC 16 Highway Overlay District #1, which ran from NC 73 north to Unity Church Road. The specific criteria would only apply on that highway, to a defined depth from the road right-of-way. Not other part of the county would be affected by those regulations. The Planning Commission and planning staff would provide recommendations on each such highway overlay district. This would give the Board of Commissioners far more flexibility to apply regulations that are specific to the type of growth and rate of growth expected in an area.

Mr. Wood recapped by saying he recommends that the Board vote to extend the effective date of the UDO from March 31, 2009 to May 31, 2009. During that 60-day period, the staff and Planning Commission would review all of the issues that have been brought up about the UDO, and make a recommendation on each one in a proposed UDO text amendment on each one in a proposed UDO text amendment. The Board would then

discuss those possible changes and vote on the text amendment before the effective date of May 31, 2009. As part of this text amendment, the Board would delete the existing language on the three highway overlay districts.

Subsequent to the May 31, 2009 effective date for the UDO, the Planning Commission and staff would begin the process of making recommendations for highway overlay districts in the NC 16 area, divided by segments as needed, with specific development criteria to be applied only within those specific segments.

Commissioner Mitchem asked Kelly Atkins how many months this has been worked on and how many months and how many months he speculated it would take.

Mr. Atkins stated that this is the 16th month working on the UDO. He said most counties and cities take between 18 and 24 months.

Commissioner Mitchem stated that it should be later than May 31 to have time to work the rest of the bugs out.

Commissioner Arena stated that it is clear that there are two distinct needs in Lincoln County. He said this was heard at the last meeting. Commissioner Arena said it is also clear that we erred with the overlay districts because those are one way, when done correctly, that we could distinguish the different needs of the county. He presented requests of the Planning Department and agreed that 60 days was not enough time. He asked that we take a look at conducting public meetings so that people understand things. He stated that he supports the recommendation relative to the overlays. He stated that there are more issues than overlays between the needs of the east and the needs of the west. They come in sections 3.2, 3.3 and 3.4. He stated that in addition to trying to redefine the overlay tool, it is not limited to highway overlays. He said they should take a look at building design and landscaping and decide a baseline for the county. The other criteria for building design and landscaping should go in overlays. Once it is decided how to do the overlays, the same process needs to be used as the old 16 is using. A group of people need to be involved, to write the definitions and that is the best way to distinguish the differing needs of the areas of the county that have different development pressures. Commissioner Arena asked for 90 days to review all of this.

Mr. Wood stated that some of the ideas may not be able to be done in an overlay, but there may be other ways of doing it.

Commissioner Klein stated that it may be a simpler discussion if the Board discusses overlays separate from the implementation date. He asked why the overlay could not be removed from the UDO now instead of in May.

Mr. Wood stated that if the Board goes with this recommendation, it clear that this will not be in it when it comes back.

Commissioner Klein stated that he think it is in everyone's best interest to deal with the thoroughfare overlay section.

A MOTION by Commissioner Mitchem to remove the thoroughfare from the UDO until such time as the Planning Board works on a Highway Overlay District for Highway 16.

Jeff Taylor stated that there is a procedural problem with doing it like what is being discussed. He stated that this is an adopted ordinance. Amendments to ordinances have to be done through public hearings..

Commissioner Mitchem withdrew his motion.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to instruct the Planning Board to delete the 2.5 on the overlay district off the table and do away with the current overlay districts as written.

UPON MOTION by Commissioner Arena, the Board voted 4 – 1 (Mitchem against) to delay the effective implementation on the Unified Development Ordinance from March 31, 2009 to July 1, 2009, with instructions to Building and Land Development and the County Manager that they are to look at all sections of the UDO including 3.2, 3.3 and 3.4 and to come back with recommendations on how to reconcile the differences in these sections for the various locations across the county.

There was a discussion about the changes needed in the ordinance.

UPON MOTION by Commissioner Arena, the Board voted unanimously to table Zoning Text Amendment No. 571 until July 1, 2009.

Public Hearing – Community Transportation Program (CTP) Application – Ron Rombs: Ron Rombs presented the Community Transportation Program (CTP) Application.

North Carolina Department of Transportation (NCDOT) administers all state and federal funds applicable to providing public transportation.

Lincoln County is required to provide matching funds to support the Community Transportation Program. Matching funds are 15% of the Administrative cost and 10% of the Capital cost.

Total NC DOT Budget		Lincoln County Matching Funds	
Administrative	\$213,990	15% match	\$32,099
Capital	\$402,209	10% match	\$40,299
TOTAL	\$616,280	Match	\$72,328

The Administrative cost will cover the salaries and benefits for the Transportation Manager, Administrative Secretary and 50% of the Medicaid Transportation Coordinator positions of TLC.

Capital cost will cover the replacement of 5 wheelchair vans, purchase of computers, office furniture, a network server and a complete communications systems for TLC.

Commissioner Carlton voiced his concerns about spending \$72,328 in these times, when all budgets are being cut including education.

Commissioner Mitchem asked what would happen if this is not approved.

Ron Rombs stated that this would basically shut down public transportation, which does about 24,000 transports per year.

Mr. Wood informed the Board that this is this is one of the few operations that brings in revenue. The increased ridership will bring in the funds to cover this expenditure.

Chairman Patton opened the Public Hearing.
Being no one wishing to speak, Chairman Patton closed the Public Hearing.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the request.

COMMUNITY TRANSPORTATION PROGRAM RESOLUTION

Section 5311

FY 2009 - FY 2010 RESOLUTION

Applicant seeking permission to apply for Community Transportation Program funding, enter into agreement with the North Carolina Department of Transportation and to provide the necessary assurances.

A motion was made by (*Board Member's Name*) George Arena and seconded by (*Board Member's Name or N/A, if not required*) N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis);

WHEREAS, (*Legal Name of Applicant*) Lincoln County hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relates to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE, be it resolved that the (*Authorized Official's Title*)* Chairman of (*Name of Applicant's Governing Body*) Lincoln County Board of Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I (*Certifying Official's Name*)* Amy Atkins (*Certifying Official's Title*) Clerk to the Board of Commissioners do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (*Name of Applicant's Governing Board*) Lincoln County Board of Commissioners duly held on the 16th day of March, 2009.

Signature of Certifying Official

***Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal Subscribed and sworn to me (date) _____

*Notary Public **

Address

My commission expires (date) _____

Affix Seal Here

HUMAN SERVICE AGENCY TRANSPORTATION RESOLUTION

State Funds

FY 2010 RESOLUTION

Applicant seeking permission to apply for Human Service Transportation funding, enter into agreement with The North Carolina Department of Transportation and to provide the necessary Assurances.

A motion was made by (*Board Member's Name*) Bruce Carlton and seconded by (*Board Member's Name or N/A, if not required*) N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services;

WHEREAS, (*Legal Name of Applicant*) Lincoln County hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, and all administrative requirements related to the applications made to and grants received from the North Carolina Department of Transportation;

NOW, THEREFORE, be it resolved that the (*Authorized Official's Title*)* Chairman of (*Name of Applicant's Governing Body*) Lincoln County Board of Commissioners is hereby authorized to submit a grant application for state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I (*Certifying Official's Name*)* Amy Atkins (*Certifying Official's Title*) Clerk to the Board of Commissioners do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (*Name of Applicant's Governing Board*) Lincoln County Board of Commissioners duly held on the 16th day of March, 2009.

Signature of Certifying Official

***Note that the authorized official, certifying official, and notary public must be three separate individuals.**

Subscribed and sworn to me (*date*) _____

*Notary Public **

Address

My commission expires (*date*) _____

Affix Seal Here

Coordinated Comprehensive Public Transportation Plan: Ron Rombs stated that the North Carolina Department of Transportation (NCDOT) and the Federal Transit Administration (FTA) have both made a commitment to trying eligibility for various Federal transit funds and programs to approved coordinated comprehensive transit plans created by local transit agencies. In the summer of 2008 the four transit providers in the Lake Norman Rural Planning Organization (RPO) jointly committed to participating in developing a plan. The RPO and participating transportation providers committed to conducting the planning process consistent with NCDOT and FTA guidance. The RPO exists to assist member governments in Cleveland, Iredell, and Lincoln Counties, as well as the northwest portion of Gaston County with meeting their transportation and transportation planning needs.

A second reason for conducting this planning process was the dramatic rise in fuel prices, as well as congestion and commute times for area workers. Public transportation, in addition to car and van pooling, is increasingly viewed as an alternative to driving alone. The dramatic rise in ridership for the area's express bus routes is an example of this new demand. The area public transportation providers have struggled with trying to provide commuter-oriented services while continuing to serve their traditional transit-dependent populations.

The planning process identified opportunities for efficiencies through coordination, as well as improved marketing to increase utilization of existing services. This was especially apparent in car and van pooling, as well as the development of park and ride lots throughout the Study Area. It also identified logical linkages with existing transit services to help create a truly regional system.

The recommendations for new services include both commuter and traditional demand-response services. The US 321 corridor between Gastonia and Hickory was seen as appropriate for fixed-route service, particularly to the Lincoln County Industrial Park. This service may initially be limited to van pools, however. The US 74 Corridor between Shelby and Gastonia should carry fixed-route bus service to link up with Gastonia and Charlotte Area Transit System fixed-route services. Cleveland County also needs expanded service to meet the needs of residents requiring dialysis, and other medical and human services.

This plan makes reasonable recommendations for new services to meet the identified needs of a variety of populations. When implemented, it will provide a range of options to help residents and workers in the Study Area travel for their daily needs.

Mr. Rombs requested the Board of Commissioners adopt the Coordinated Comprehensive Public Transportation Plan. This plan ensures Lincoln County's eligibility for federal and state transportation funding and guides public transportation programs within the region. Many of the proposed recommendations shall be met with Community Transportation (CTP) funds.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Coordinated Comprehensive Public Transportation Plan.

Vale Recreation Area – Erma Deen Hoyle: Erma Deen Hoyle stated that Lincoln County Parks and Recreation is now responsible for the Vale Recreation Area, formerly used for a church softball league, with plans to develop the property as a neighborhood park. Improvements completed in recent years were new ballfield lighting and renovations to the restroom/concession building. Additional improvements planned for the site include construction of a walking track, upgrade of the parking area, and a small play area.

The property, adjacent to Union Elementary School is owned by Lincoln County Schools. The site is not used as an active campus area, but only for special events such as field day.

Erma Deen Hoyle requested approval of both the Memorandum of Understanding with Lincoln County Schools regarding use of the property and the award of the bid submitted by Geymont Construction of Vale for the parking improvements and the construction of the track.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Memorandum of Understanding.

VALE RECREATION AREA MEMORANDUM OF UNDERSTANDING

Lincoln County Schools
and
Lincoln County
(Parks and Recreation)

THIS AGREEMENT is entered into this 25th day of March, 2009, between Lincoln County Schools (hereinafter referred to as “Schools”) and Lincoln County (for Parks and Recreation, and hereinafter referred to as “Recreation”).

WHEREAS,

1. Lincoln County Schools is the owner of property adjacent to Union Elementary School (across Hoover-Elmore Road) formerly used by the Vale Recreation Association,
2. The Schools wishes to maintain ownership of this property, but does not have plans for its active use as part of the school campus,
3. Lincoln County Parks and Recreation wishes to expand recreation opportunities for county citizens, taking advantage of property formerly or currently used by community groups for activities and programs,
4. Various community and athletic groups have requested use of the facility, and

5. The Recreation Department has funds designated for further improvements to the recreation area.

THEREFORE,

The Schools and Recreation enter into this agreement to allow Recreation to make improvements to the site (at no cost to the Schools or Union Elementary, and in addition to the lights and building upgrade completed previously) including playground equipment, fencing, landscaping, a walking track, and additional parking.

Recreation will consider the site a neighborhood park, will maintain the calendar for scheduling use of the facility, collect any fees due for this use, and pay the utilities and maintenance costs for the portion of the property used for recreation and community activities and programs. (See next page, item three.)

This agreement shall be in effect for the initial period of 10 years, automatically renewable for terms of 5 years, unless notice is provided to the other party 30 days prior to end of term.

Other conditions which apply to this agreement are as follows:

1. Lincoln County and Lincoln County Schools shall name the other as an additional insured for all insurance coverage for this property.
2. Fees collected for use of the facility shall be considered revenue of Lincoln County Parks and Recreation and shall be used to offset the utility and maintenance costs for the facility.
3. All classes and groups of Lincoln County Schools shall be exempt from any fees applicable to use of the facility. School staff shall need only to contact the Recreation Office to reserve the facility for specific dates and/or times. School activities will have priority use of the fields during school hours.
4. Any conditions as added by the Board of Education or Board of County Commissioners.

This 25th day of March, 2009.

LINCOLN COUNTY SCHOOLS

BY: _____
Board Chair / Superintendent

LINCOLN COUNTY

BY: _____

Ms. Hoyle presented the following bids for the Vale Recreation Area Improvements:

Contractor	Price
Geymont Construction Co, Inc.	\$ 35,026.90
Deal Construction, Inc.	\$ 44,400.00
Leatherman Grading, Inc.	\$ 47,798.24
Workman Builders, Inc.	\$ 59,472.72

Commissioner Arena asked if the Board should wait until getting closer to the 2010 budget before spending \$35,000 on walking trails. He stated that his personal preference is to table this until Mr. Wood presents the 2010 budget.

It was discussed that this money has already been allocated.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to award the bid to Geymont Construction of Vale. 4 – 1 (Arena against)

Playground Equipment – Beattys Ford Park: Erma Deen Hoyle stated that with the main park construction contract now complete, the final improvements for the parks are underway. Recreation employees are constructing the horseshoe pits, mountain bike trail and other classroom areas. The playground equipment at West Lincoln Park has been installed.

The Beattys Ford Park Advisory Committee met on Tuesday, March 3rd, and reviewed the playground equipment and layouts submitted by four vendors. The proposal submitted by PlayWorld Carolinas (Option II) was the choice of the committee. Ms. Hoyle requested approval for the award for both the playground equipment for Beattys Ford Park and for the tables and benches (both parks) to Playworld Carolinas.

PARK FURNISHINGS:

<u>COMPANY</u>		<u>PLAYGROUND</u>		<u>TABLES</u>		<u>COMBINED</u>
		<u>EQUIPMENT</u>		<u>BENCHES</u>		<u>TOTAL</u>
PlayWorld Carolinas - Option I	\$	43,299.00	\$	19,918.96	\$	63,217.96
Option II	\$	44,494.60	\$	19,918.96	\$	64,413.56
Option III	\$	44,752.83	\$	19,918.96	\$	64,671.79
Playgrounds of Carolina	\$	43,918.01	\$	20,026.83	\$	63,944.84
Cunningham Associates	\$	44,998.99	\$	24,352.24	\$	69,351.23

Fun Timbers	\$	41,045.38	\$	25,170.40	\$	66,215.78
Carolina Recreation Products		no bid received	\$	23,023.84		

UPON MOTION by Commissioner Klein, the Board voted 4-1 (Arena against) to approve the award for both the playground equipment for Beattys Ford Park and for the tables and benches (both parks) to Playworld Carolinas at a total cost of \$64,671.79.

Resolution #2009-8: Resolution of Tentative Award: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve Resolution 2009-08.

RESOLUTION #2009-8:
RESOLUTION OF TENTATIVE AWARD

WHEREAS, the Lincoln County Board of Commissioners, North Carolina has received bids, pursuant to duly advertisement notice therefore, for construction of the Killian Creek Gravity Sewers, Pump Stations, and Force Mains Project, and

WHEREAS, the W. K. Dickson Consulting Engineers have reviewed the bids; and

WHEREAS, Wharton-Smith of Charlotte, was the lowest bidder for the Killian Creek Wastewater Treatment Plant Project, in the total bid amount of \$14,572,000, with a base bid of \$14,222,000 and the preferred equipment of the Lakeside Preliminary Treatment Equipment at \$100,000; the Aqua Aerobics Effluent Disk Filter at \$160,000; the Fournier Rotary Sludge Press at \$80,000; and the 60-day Early Completion Option at no additional cost; and, if Aqua Aerobics refuses to provide the Effluent Disk Filter, the County will accept a replacement brand for this equipment that is acceptable to the consulting engineers at a price that is \$160,000 less, or \$14,412,000; and

WHEREAS, the W. K. Dickson Consulting Engineers recommend TENTATIVE AWARD to the lowest bidder;

NOW, THEREFORE, BE IT RESOLVED that TENTATIVE AWARD is made to the lowest bidder, Wharton-Smith of Charlotte, NC, in the Total Bid Amount of \$14,572,000.

BE IT FURTHER RESOLVED that such TENTATIVE AWARD be contingent upon the express approval of the North Carolina Department of Environmental and Natural Resources.

Resolution #2009-9: Resolution of Tentative Award: **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve Resolution 2009-9.

RESOLUTION #2009-9:
RESOLUTION OF TENTATIVE AWARD

WHEREAS, the Lincoln County Board of Commissioners, North Carolina has received bids, pursuant to duly advertisement notice therefore, for construction of the Killian Creek Gravity Sewers, Pump Stations, and Force Mains Project, and

WHEREAS, the W. K. Dickson Consulting Engineers have reviewed the bids; and

WHEREAS, Wharton-Smith of Charlotte, was the lowest bidder for the Killian Creek Wastewater Treatment Plant Project, in the total bid amount of \$14,572,000, with a base bid of \$14,222,000 and the preferred equipment of the Lakeside Preliminary Treatment Equipment at \$100,000; the Aqua Aerobics Effluent Disk Filter at \$160,000; the Fournier Rotary Sludge Press at \$80,000; and the 60-day Early Completion Option at no additional cost; and, if Aqua Aerobics refuses to provide the Effluent Disk Filter, the County will accept a replacement brand for this equipment that is acceptable to the consulting engineers at a price that is \$160,000 less, or \$14,412,000; and

WHEREAS, the W. K. Dickson Consulting Engineers recommend TENTATIVE AWARD to the lowest bidder;

NOW, THEREFORE, BE IT RESOLVED that TENTATIVE AWARD is made to the lowest bidder, Wharton-Smith of Charlotte, NC, in the Total Bid Amount of \$14,572,000.

BE IT FURTHER RESOLVED that such TENTATIVE AWARD be contingent upon the express approval of the North Carolina Department of Environmental and Natural Resources.

Waterline Construction Contract Award to Neill Grading of Hickory, NC: Steve Gilbert, Director of Public Utilities, stated that requests for bid for construction 1,424 LF of 6" Water Line were sent out in January 2009 to five different local contractors. Since the estimated cost of the installation was well under the formal bid limit of \$500,000, they were able to do this as an informal bid. Bids were received on February 25 and Neill Grading was the low bidder at \$50,176.10.

This section of Webb's Road, between Calvary Lane and Legacy Drive, is not served by Lincoln County water at this time since the only source of water along this short section of road is the 24" DIP line that serves as the only transmission line from the Lincoln County WTP to Highway 16 to the rest of the county. By installing this 1,424 LF section, existing and new homes in the area can be served. It will also create a water line loop along Webb's Road and, in turn, provide better service for the residents on Webb's Road and the developments there. It will also supply some redundancy in the system there in case of a waterline break.

Mr. Gilbert recommended that Neill Grading be awarded the contract to construct this waterline for the bid price of \$50,176.10.

Commissioner Klein asked where the money for this is. Mr. Gilbert stated that it is in the Water Fund and will be transferred to the Capital Projects Fund.

UPON MOTION by Commissioner Carlton, the Board voted 4-1 (Klein opposed) to award the contract to the low bidder, Neill Grading for the bid price of \$50,176.10.

Capital Project Report – Steve Gilbert: Steve Gilbert presented the Capital Project Report.

Commissioner Arena asked if there are still unresolved right of way issues with the new wastewater treatment plant. Mr. Gilbert stated that there are six or so parcels that should be cleared up this week and one problematic one that will be discussed later.

UPON MOTION by Commissioner Carlton the Board voted unanimously to approve the Resolution Authorizing Funding Applications to NCDENR – Public Water Supply for Lincoln County's NC 73 Water line Extension and the Resolution Authorizing Funding Applications to NCDENR – Public Water Supply for Lincoln County's Amity Church Road Water line Extension.

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR – PUBLIC WATER SUPPLY
FOR LINCOLN COUNTY'S NC 73 WATER LINE EXTENSION**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, **Lincoln County** has need for and intends to construct a drinking water system project described as the NC 73 Water Line Extension to provide connection of a gap between East Lincoln High School and East Lincoln Middle School, and to complete an important water line loop providing much needed redundancy in East Lincoln County's water system, and

WHEREAS, **Lincoln County** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That **Lincoln County**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of Lincoln County to make scheduled repayment of the loan, to withhold from the Lincoln County any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Stephen A. Gilbert, Public Works Director**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 16th day of March, 2009 at Lincoln County, North Carolina.

Alex E. Patton, Chairman of the Board of Commissioners

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR – PUBLIC WATER SUPPLY
FOR LINCOLN COUNTY’S AMITY CHURCH ROAD WATER LINE
EXTENSION**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, **Lincoln County** has need for and intends to construct a drinking water system project described as the Amity Church Road Water Line Extension to provide a secondary source of water service to the East Lincoln Middle School, to complete an important water line loop, and to eliminate the need to flush approximately 50,000 gallons per day of water to sustain water quality parameters at a dead end line on NC Highway 73, and

WHEREAS, **Lincoln County** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That **Lincoln County**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of Lincoln County to make scheduled repayment of the loan, to withhold from the Lincoln County any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Stephen A. Gilbert, Public Works Director**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 16th day of March, 2009 at Lincoln County, North Carolina.

Alex E. Patton, Chairman of the Board of Commissioners

Finance Officer's Report: Leon Harmon presented the Finance Officer's Report.

County Manager's Report: George Wood presented the County Manager's Report.

Mr. Wood presented a report of delinquent taxes that are liens on real property as of February 10, 2009. Upon receipt of this report, the governing board must order and set a date for the advertising of these delinquent taxes. Ms. Huffman is recommending that this advertisement will appear in the Lincoln Times News on Wednesday, March 25, 2009.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the advertisement of delinquent taxes on March 25, 2009.

County Attorney's Report: Jeff Taylor deferred his report to closed session.

Vacancies/Appointments: Commissioner Carlton encouraged the Board to be on the lookout for people willing to serve on Boards, Committees and Commissions.

Calendar: Chairman Patton stated that there will be a deployment ceremony at Fort Bragg on April 14 for the Lincoln National Guard troops going overseas.

Other Business: Chairman Patton stated that all Commissioners now have a laptop and have been trained concerning email. He asked if everyone felt comfortable moving forward with paperless packets. It was the consensus to move forward with paperless packets.

Commissioner Klein asked about the direction given to the Planning Board at the previous meeting. He stated that he does not remember asking the Planning Board to include a Highway 16 overlay for the old Highway 16. He stated that he does not remember this being in the motion.

Commissioner Mitchem stated that he thinks it was covered in the motion. He said that the motions made tonight precede anything that was made at the last meeting.

George Wood stated that the Board has instructed the Planning Board, Planning staff and the County Manager to come back with an amendment on these various changes to the UDO that one of those amendments is to be removing Section 2.5, which is the three existing highway overlay districts. Secondly is to go through and review all the comments up until this point, then come back to the Board with a text amendment with their recommendation on those. He stated that he was proceeding under the idea that the Board wanted the Planning Board to work on a Highway Overlay district starting from scratch for the NC 16 area.

Commissioner Klein stated that if he had known that the language said that the Planning Board was designing an overlay district for old 16, he would not have supported that motion.

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

Closed sessions.

- (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;
- (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 concerning the lawsuit Lincoln County vs. Joann and Douglas Hager and Tri-County Animal Rescue.

Chairman Patton announced that no action was taken in Closed Session.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adjourn the meeting.

Amy S. Atkins, Clerk
Board of Commissioners

Alex Patton, Chairman
Board of Commissioners