

The Lincoln County Board of County Commissioner met as the governing body of the East Lincoln County Water and Sewer District at the Citizens Center, Third Floor, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 p.m. on October 20, 1997. The following were present:

Louis E. McConnell, Chairman
James A. Hallman, Vice Chairman
Terry L. Brotherton
Larry S. Craig
Beth H. Saine

Jeff Taylor, Assistant County Attorney
Richard French, County Manager

Also present were Doug Chapman, County Engineer, Jack Chandler, Director of Public Service, and Amy S. Long, Clerk to the Board.

CALL TO ORDER

Chairman McConnell called the October 20, 1997 meeting of the East Lincoln County Water and Sewer District Board to order.

ADOPTION OF AGENDA

Chairman McConnell presented the October 20, 1997 agenda of the East Lincoln County Water and Sewer District Board for adoption.

AGENDA
EAST LINCOLN COUNTY WATER & SEWER DISTRICT
BOARD OF COUNTY COMMISSIONERS
Governing Body
LINCOLN COUNTY, NORTH CAROLINA

October 20, 1997

6:30 PM	Call to Order	
1.	6:30 PM	Adoption of the Agenda
2.	6:30PM	Approval of Minutes

September 22, 1997

3. 635 PM Capacity Fee Report – Doug Chapman
4. 6:45 PM Report on Sewer District Activities – Jack Chandler
5. 6:50 PM Other Business

Adjourn

Commissioner Larry Craig motioned that the agenda of the October 20, 1997 East Lincoln County Water and Sewer District Board be adopted.

Seconded by Commissioner Terry Brotherton.
Unanimously approved.

APPROVAL OF MINUTES

Chairman McConnell presented the minutes of the September 22, 1997 meeting for approval.

Commissioner James Hallman motioned that the minutes of September 22, 1997 meeting be approved with the noted correction in bold.

Seconded by Commissioner Larry Craig.
Unanimously approved.

CAPACITY FEE REPORT

Doug Chapman, County Engineer, presented the following letter:

MEMORANDUM

Date: October 13, 1997

To: Richard French, County Manager

From: Douglas Chapman, County Engineer

Subject: Proposed Capacity Fee Ordinance

The staff, in conjunction with the Assistant County Attorney has drafted an ordinance for assigning wastewater capacity fees. Attached is a copy of the draft of that ordinance for review by the Sewer District Board.

The fee proposed is \$1,530 per dwelling unit for residential construction, and \$4.25 per gallon per day of wastewater flow, as determined by building use for nonresidential construction. The fee would apply only to new construction of buildings, and installation of mobile homes on new lots or spaces. As proposed, the fee would be placed on all buildings or mobile homes for which a building permit is obtained after January 1, 1998.

There are many issues within this ordinance which need to be discussed in depth with the Board, therefore I recommend that a work session be set to discuss the ordinance.

Doug Chapman, County Engineer, reviewed the following proposed ordinance:

**EAST LINCOLN COUNTY WATER AND SEWER DISTRICT
WASTEWATER CAPACITY FEE ORDINANCE**

SECTION 1 - GENERAL

The East Lincoln County Water and Sewer District, herein after referred to as the District, Governing Board makes the following findings:

1. Public sewage facilities are vital to the health, safety, environment, welfare, and economic prosperity of eastern Lincoln County;
2. That public sewage facilities in the District must be expanded in order to comply with NPDES discharge permit limitations if new development is to be accommodated without violating the existing discharge permit, and/or utilizing capacity needed for existing development;
3. To finance the expansion of the wastewater treatment facilities in the District necessary to comply with the discharge permit while accommodating new growth, several methods of finance will be employed, one of which will require new construction to pay an appropriate share of the reasonably anticipated treatment facilities in the form of capacity fees; and
4. These capacity fees will provide, in a reasonable manner, for the public health, safety, and welfare of property owners within the District by providing a portion of the costs of treatment facilities which bears a relationship to the benefits of the treatment facilities to the new growth in the District.

SECTION 2 - DEFINITIONS

For the purposes of this ordinance, the following terms shall have the following definitions:

Certificate of Occupancy. A certificate issued by Lincoln County or a municipality located therein allowing the occupancy or use of a building and certifying that the building, mobile home, or structure has been constructed and will be used in compliance with all applicable codes and ordinances.

Dwelling Unit. A room or group of rooms forming a single independent habitable unit with facilities used or intended to be used for living, sleeping, cooking, and eating by one family.

Feepayer. The person constructing or responsible for having constructed a new structure. In the case of a mobile home, the person installing or responsible for having installed a new mobile home or new mobile homes.

Food Services. Any building or structure where food is prepared and offered for sale, including dine in and/or take-out.

Non-Residential. Any building used for purposes other than habitable living spaces. Examples: Business, Industry, Offices, Commercial, Retail, Institutional.

Square footage. That portion of a building or structure which is enclosed and protected from weather. Also, covered areas used for storage, or outside dining shall be included. Covered, yet open entryways, canopies, walkways, and porches shall not be included.

SECTION 3 - WASTEWATER CAPACITY FEES IMPOSED ON NEW CONSTRUCTION

In addition to all other charges prescribed by ordinance or resolution now or hereafter in effect, there shall be wastewater capacity fees charged to new buildings, structures, or mobile homes, located within the District, and areas outside the District which receive sewer service from the District. No person may occupy any new building, structure, or mobile home until all applicable capacity fees contained in the following schedule have been paid in full. No certificate of occupancy or other type of occupancy permit shall be issued for any new building, structures, or mobile homes until the capacity fees hereby required have been paid in full. Payment of such fees shall not relieve the feepayer from the obligation to comply with applicable land development regulations of Lincoln County or the municipalities located within Lincoln County.

Wastewater Capacity Fees:

Residential: **\$1,530 per dwelling unit**

Non-Residential: **\$4.25 per gallon per day of design flow**

Non-Residential Wastewater Design Flow Rates:

Without Food Services: **0.1 gallons per day per square foot of building space**

With Food Services: **0.6 gallons per day per square foot of building space**

Capacity fees for non-domestic wastewater flows which result from manufacturing or process flows, other than Food Services, shall be determined by the information included in an Industrial User Wastewater Survey completed by the potential customer. Design flow rate for computation of capacity fees shall be based on an approved Pretreatment Permit issued in accordance with the Lincoln County Sewer Use Ordinance, or approved by the County Engineer.

If additions or alterations are made to a non-residential structure, the wastewater capacity fee shall be difference between the fee for the original structure and the fee computed for the newly revised structure.

SECTION 4 - WASTEWATER CAPACITY FEE EXCEPTIONS

Wastewater capacity fees as provided in Section 3 shall not be imposed in the following circumstances:

1. Alterations, repairs or renovations to buildings which will not increase the flow of wastewater generated by the structure. Any non-residential structure that is altered, repaired or renovated that has an increased amount of square footage, shall pay a capacity fee for such additions.
2. Buildings, structures, or mobile homes for which a building permit was obtained and remains in force, prior to the effective date of this ordinance, January 1, 1998.
3. Replacement of a building, structure or mobile home including the following:
 - a. Installation of a replacement mobile home on a separate lot or mobile home park space when a capacity fee for such lot or space has been previously paid pursuant to this ordinance or where a residential mobile home legally existed on such lot or space on or before the effective date of this ordinance. For the

purposes of this ordinance, “legally existed” shall mean that a mobile home used as a dwelling unit, was located on the lot or space for a minimum of 12 months during the five-year period prior to the date of adoption of this ordinance.

- b. Replacement of a building, structure or mobile home damaged, destroyed or partially destroyed by: the exercise of eminent domain; human acts, such as riot, fire, accident, explosion; or flood, lightning, wind or other natural calamity, with a new building, structure or mobile home of similar use.

A residential building, structure or mobile home may be replaced with a new building, structure or mobile home of the same or dissimilar dwelling type. For example, a mobile home may be replaced with a mobile home. Likewise, a mobile home may be replaced with a stick-built structure. In either case, however, the number of dwelling units may not be increased. (Any increase in the number of dwelling units will result in additional fees.)

5. Accessory buildings and structures, including, but not limited to, garages, decks, storage building, and similar structures, provided they do not increase the wastewater generated on the property.
6. A mobile home being used, or to be used as an Accessory Care Provider Housing Unit under the provisions of an approved Conditional Use Permit.

SECTION 5 - COLLECTION OF FEES

A. CREATION OF WASTEWATER PLANT EXPANSION TRUST FUNDS

Wastewater capacity fees collected by the District pursuant to this ordinance shall be divided as follows:

1. 25% of fees shall be utilized for repayment of existing debt,
2. 75% of fees shall be reserved in a trust fund for wastewater treatment plant expansion.

B. RESPONSIBILITY FOR FEE COLLECTION

All wastewater capacity fees are due to the District and shall be paid prior to a certificate of occupancy being issued for a building, structure or mobile home. The fees shall be collected by Lincoln County Public Works Department. Upon receipt by the Public Works Department, fees shall be deposited in District funds for distribution as indicated above.

C. LIMITATION ON EXPENDITURE OF FUNDS

Funds withdrawn from wastewater capacity fee trust accounts as outlined in Section 5.A.2, shall be used solely in accordance with the following provisions:

1. Funds shall be used for capital costs associated with the construction of new buildings, structures, and equipment necessary to increase treatment capacity. Such capital costs include actual construction, design, engineering, and/or legal fees; land acquisition and site development; equipment and furnishings; infrastructure improvements; and/or debt service payments to finance such costs.
2. Funds shall be used exclusively for capital improvements within the District.
3. No funds shall be used for wastewater system operating expenses, periodic or routine maintenance, or the administration of the capacity fee program.
4. Any fees remaining in trust funds after wastewater treatment plant expansion shall be used to retire any existing debt held by the District.

If funds held in reserve trust accounts are not sufficient to fully fund necessary expansions, fees received after such expansion to be reserved in trust accounts shall be used to repay debt until such expansion debt is fully paid.

D. INTEREST ON FEES

Any capacity fee funds on deposit and not immediately necessary for expenditure shall be invested as allowed in N.C. General Statute 159-30 for other public monies. All income derived shall be deposited in the applicable trust fund.

SECTION 6 - PENALTIES

In addition to any other remedy allowed by N.C. General Statute 153A-123, the failure to pay a wastewater capacity fee is hereby declared to subject the person responsible for payment of the capacity fee to a civil penalty. The amount of the penalty shall be equal to the amount of the unpaid capacity fee, plus an interest charge of one-half percent (1/2%) per month compounded monthly and a service charge of one hundred dollars (\$100.00).

The District may assess this penalty against the land owner whereon new construction has occurred without payment of the wastewater capacity fee. However, no service charge will be assessed when the District staff has made an error in the fee determination. Furthermore, no penalty shall be assessed until the person or persons alleged to be in

violation are served in accordance with the procedures of Rule 4 of the North Carolina Rules of Civil Procedure with notice to pay.

The District's Attorney is hereby authorized to institute a civil action in the name of the East Lincoln County Water & Sewer District in the appropriate division of the General Court of Justice in Lincoln County for recovery of the penalty. All monies recovered shall be deposited in the appropriate trust fund.

SECTION 7 - LEGAL STATUS PROVISIONS

All ordinances and clauses in conflict herewith are hereby repealed to the extent of said conflict. If any clause or section of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this ordinance which can be given separate effect, and to this end, the provisions of this ordinance are declared to be severable.

This ordinance shall not diminish any prior contractual or special or conditional land use obligation to pay for or install road, water, sewer or other improvements required by Lincoln County or a municipality located therein, nor shall the fulfillment of those obligations diminish any applicable capacity fee owed to the District. This ordinance shall not diminish any prior obligation of the District, Lincoln County, or a municipality located therein to reimburse persons for road, water, sewer or other improvements, nor shall the fulfillment of those obligations by the District, Lincoln County, or a municipality diminish any applicable capacity fees owed to the District.

SECTION 8 - EFFECTIVE DATE

This ordinance shall be effective from and after the 1st day of January, 1998. This ordinance shall only apply to buildings, structures and/or mobile homes for which building permits are issued on and after the effective date of the ordinance or any amendment thereto.

Commissioner Larry Craig stated that this plan has nothing to offer as far as the current debt is concerned.

Commissioner Terry Brotherton stated that he agrees with Commissioner Craig, he would like to see the fees collected go toward the existing debt.

Doug Chapman, County Engineer, stated that the percentages could be adjusted as the Board sees fit. Mr. Chapman stated that one concern is that with all the new

development that is planned, another heavy tax to cover expansion of the Wastewater Treatment plant is not wanted. He stated that it could be a graduated system.

Commissioner James Hallman asked if availability fees and capacity fees would be charged within the district.

Doug Chapman stated that the capacity fees would be above any other connection fees.

Commissioner Terry Brotherton commented that the \$1500 is based on the impact on the treatment plant alone, but there are other places that would receive the impact. He stated that the Board would get as much criticism for \$1500 as for \$3000.

Doug Chapman stated that there are costs associated with pump station construction and particularly the main out-fall sewer line. He stated that these could be included as part of the contributing factor as well.

Rick French, County Manager, stated that the Board could continue discussing this matter at the work session, scheduled for October 22 at 6:30 p.m.

REPORT ON SEWER DISTRICT ACTIVITIES – JACK CHANDLER

Jack Chandler, Director of Public Service, stated that he wanted to give a brief report on the sewer district activities. He stated that things seem to be slowing down somewhat. He commented that to-date in October there have only been 7 new customers in the sewer district, and only 5 new applications. Mr. Chandler presented the following information for comparison: July, 22 new customers, 11 applications; August, 23 new customers, 12 applications; and September, 21 new customers, 17 applications.

Jack Chandler stated that at the Sewer Treatment plant, the average flow through the plant for the month of September was 96,000 gallons per day. The plant is rated at 750,000 gallons per day. The high flow for the month of September was 171,000 gallons per day; the low flow was 57,000 gallons per day.

Rick French, County Manager, commented that every month Jack Chandler, Director of Public Service, will come in and give a report on the sewer district activities.

Commissioner Larry Craig asked Jack Chandler to break the report down into residential and non-residential in the future.

Commissioner Terry Brotherton asked if any applications have been received requesting using a septic tank as backup.

Jack Chandler stated that there have been a couple of people inquiring about it, but he is not sure if anybody has applied for it.

Jack Chandler stated that the meeting with the marketing representative has been scheduled for October 30, 1997 at 7:00 p.m.

Mr. Chandler stated that if the goal for the fiscal year was to have 300 new customers, that averages out to 25 customers per month. He stated that there have been 73 new customers so far this year.

OTHER BUSINESS

Rick French, County Manager, stated that the Board needs to adopt the 1998 First Quarter Meeting Schedule for the East Lincoln County Water and Sewer District Board.

MEMORANDUM

TO: Louis McConnell, Chairman
Board of Commissioners

FROM: Rick French, County Manager
Amy Long, Clerk to the Board

SUBJECT: 1998 First Quarter Meeting Schedule
Lincoln County Board of Commissioners
East Lincoln County Water and Sewer District Board
Board of Variance and Appeals

DATE: October 14, 1997

JANUARY 5, 1998

6:30 P.M. Public Hearings --- Joint Meeting of the Lincoln County Board of Commissioners and Lincoln County Planning Board

7:30 P.M. Public Hearings --- Lincoln County Board of Variance and Appeals

JANUARY 19, 1998

6:30 P.M. East Lincoln County Water and Sewer District Board

7:00 P.M. Lincoln County Board of Commissioners Regular Meeting

FEBRUARY 2, 1998

6:30 P.M. Public Hearings --- Joint Meeting of the Lincoln County Board of

Commissioners and Lincoln County Planning
Board
7:30 P.M. Public Hearings --- Lincoln County Board of Variance and Appeals

FEBRUARY 16, 1998

6:30 P.M. East Lincoln County Water and Sewer District Board
7:00 P.M. Lincoln County Board of Commissioners Regular Meeting

MARCH 2, 1998

6:30 P.M. Public Hearings --- Joint Meeting of the Lincoln County Board of
Commissioners and Lincoln County Planning
Board
7:30 P.M. Public Hearings --- Lincoln County Board of Variance and Appeals

MARCH 16, 1998

6:30 P.M. East Lincoln County Water and Sewer District Board
7:00 P.M. Lincoln County Board of Commissioners Regular Meeting

All meetings will be held in the Citizens Center, Commissioner's Room (located on the 3rd floor), Lincolnton, N.C. unless otherwise posted. Any questions concerning the meetings should be directed to Amy Long, Clerk to the Board at 736-8471.

Commissioner James Hallman made a motion to adopt the 1998 First Quarter Meeting Schedule for the East Lincoln County Water and Sewer District Board.

Seconded by Commissioner Beth Saine.
Unanimously approved.

ADJOURN

Being no further business to come before the Board of Commissioners, the governing body of the East Lincoln County Water and Sewer District, Chairman McConnell entertained a motion to adjourn the meeting.

Commissioner James Hallman motioned that the meeting be adjourned.

Seconded by Commissioner Larry Craig.

Unanimously approved.