

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, JUNE 1, 2009**

The Lincoln County Board of County Commissioners met on June 1, 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  
Carrol Mitchem

Commissioner Klein absent

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  
Rick McSwain, Soil and Water Director  
Kelly Atkins, Planning and Inspections Director  
Randy Hawkins, Zoning Administrator  
Barry McKinnon, Public Works Interim Director/Sr. Utility Engineer  
Susan McCracken, Social Services Director  
Leon Harmon, Finance Director

**Call to Order:** Chairman Patton called the June 1, 2009 meeting of the Lincoln County Board of Commissioners to order.

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

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adopt the agenda.

## **AGENDA**

### **LINCOLN COUNTY BOARD OF COMMISSIONERS**

**JUNE 1, 2009**

- |    |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | 6:35 PM | Call to Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 1. | 6:40 PM | Adoption of Agenda                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2. | 6:41 PM | Consent Agenda <ul style="list-style-type: none"><li>- Approval of Minutes<ul style="list-style-type: none"><li>- May 4, 2009 Work Session</li><li>- May 18, 2009</li></ul></li><li>- Budget Adjustments 94 - 100</li><li>- Waived fees<ul style="list-style-type: none"><li>- BPW – Apple Queen Pageant</li></ul></li><li>- Ore Bank-Pumpkin Center VFD – Request for 2 Surplus Vehicles</li></ul>                                                                                 |
| 3. | 6:42 PM | Update on Burton Creek – Rick McSwain                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4. | 6:55 PM | Zoning Public Hearings – Randy Hawkins <p><u>CZ #2009-1 ITAC 129, LLC, applicant</u> (Parcel ID# 02329) A request to rezone 27 acres from CU B-G (Conditional Use General Business) to CZ B-G (Conditional Zoning General Business) to permit a shopping center with 87,200 square feet of floor area, including a 53,000-square-foot anchor store, and four outparcels. The property is located on the northeast corner of Hwy. 16 and Webbs Road in Catawba Springs Township.</p> |
| 5. | 7:30 PM | Budget Public Hearing                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 6. | 7:50 PM | Public Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 7. | 8:05 PM | Presentation and Recommendation by Stewart, Cooper, Newell Architects on the Bank of America Building; and possible action on exercising the option to purchase contained in the current lease                                                                                                                                                                                                                                                                                      |
| 8. | 8:35 PM | Request for Additional Income Maintenance Caseworker – Susan McCracken                                                                                                                                                                                                                                                                                                                                                                                                              |
| 9. | 8:45 PM | Resolution #2009-15: A Resolution of the Board of Commissioners of the County of Lincoln, North Carolina, (The “Issuer”) Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Tax-Exempt Financings for Certain                                                                                                                                                                                                                                             |

Expenditures Made and/or to be Made in Connection With the Acquisition, Construction and Equipping of Certain Capital Improvements

10. 8:50 PM Request for Surplus Vehicle from South Point Lifesaving Crew
11. 8:55 PM Other Business
12. 9:00 PM Closed Session - Personnel

Adjourn

**Consent Agenda:** Chairman Patton presented the Consent Agenda for the Board's approval.

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

- Approval of Minutes
  - May 4, 2009 Work Session
  - May 18, 2009
- Budget Adjustments 94 – 100
  - BA #94 for Social Services to increase expenditure and revenue line items for allocation for ARRA Administrative Funding for Food and Nutrition Services (no county funds involved)
  - BA #95 for Social Services to increase expenditure & revenue line items to purchase 10 computers/printers for the child support unit
  - BA #96 for Cooperative Extension to enable us to manage grant funds from Duke Energy
  - BA #97 for the Health Department for a grant to promote healthy weight and diet issues to prevent future health problems.
  - BA #98 for the Health Department for a Kate B. Reynolds grant to support Healthy Carolinians and Health Promotion Infrastructure.
  - BA #99 for the Health Department for a Healthy Carolinians Grant to be used to enhance health department programs thru facilitating and advertising community events as well as increase outreach to the Hispanic population in the county.
  - BA #100 to reallocate JCPC fund to reflect state funding level.
- Waived fees
  - BPW – Apple Queen Pageant
- Ore Bank-Pumpkin Center VFD – Request for 2 Surplus Vehicles

Motion by Commissioner Arena

**Update on Burton Creek – Rick McSwain:** Rick McSwain gave an update on Burton Creek.

Mr. McSwain stated that the City of Lincolnton has approached him concerning the County covering the city in sediment and erosion control. The Sediment and Erosion Control Ordinance will need to be amended to do this.

**New Business/Advertised Public Hearings:**

Chairman Patton announced that this was the date, Monday, June 1, 2009, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on May 22 and 29, 2009.

**NOTICE OF PUBLIC HEARINGS**

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, June 1, 2009, at 6:30 p.m. to consider the following matter:

CZ #2009-1 ITAC 129, LLC, applicant (Parcel ID# 02329) A request to rezone 27 acres from CU B-G (Conditional Use General Business) to CZ B-G (Conditional Zoning General Business) to permit a shopping center with 87,200 square feet of floor area, including a 53,000-square-foot anchor store, and four outparcels. The property is located on the northeast corner of Hwy. 16 and Webbs Road in Catawba Springs 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 Lincoln County Planning and Inspections Department at (704) 736-8440.

**Conditional Zoning No. 2009-1 – ITAC 129, LLC, applicant:** Randy Hawkins presented the following information concerning Conditional Zoning No. 2009-1.

The applicant is requesting the rezoning of 27 acres from CU B-G (Conditional Use General Business) to CZ B-G (Conditional Zoning General Business) to permit a shopping center with 87,200 square feet of floor area, including a 53,000-square-foot anchor store, and four outparcels. If this request is approved, the development of this property would be governed by the B-G district's regulations, the approved site plan, the Design Development Guidelines submitted as part of the rezoning application, and any additional rules and conditions that may be imposed. The property was rezoned and a conditional use permit was issued in March 2001 to allow the development of a shopping center, but that project wasn't carried out and the permit expired.

This property is located at the northeast corner of Hwy. 16 and Webbs Road in the Catawba Springs Township. It is adjoined by property zoned R-SF (Residential Single-Family) and B-N (Neighborhood Business). Land uses in this area are a mixture of residential and business. County water and sewer are available at this location. The Lincoln County Land Use Plan classifies this property as part of the N.C. 16 Corridor and

calls for a redevelopment plan that promotes the further mixing of land uses while addressing issues such as architectural appearance, landscaping, signage and access management. The steering committee for the Hwy. 16 Corridor Vision Plan is recommending that the Hwy. 16/Webbs Road intersection be designated as a Neighborhood Center, an area suitable for smaller-scale commercial development such as this proposed center.

Staff has reviewed this proposal and the revised plans and as part of their recommendation for approval, they are recommending four conditions:

1 – That connectivity be permitted between this property and the adjacent property to the north on Hwy. 16 if that property is developed for a nonresidential, multi-family or mixed-use project.

2 - That the improvements outlined in the draft Traffic Impact Analysis dated January 2009 be provided and, additionally that the southbound left-turn lane on Hwy. 16 at Access A have 175 feet of storage plus appropriate tapers and that the northbound right-turn lane on Hwy. 16 at Webbs Road be lengthened to 200 feet of storage plus appropriate taper.

3 – That an eastbound left-turn lane on Webbs Road with 50 feet of storage and appropriate taper be provided

4 – That bikeways and pedestrian facilities be provided along the entire length of this property on both Webbs Road and Hwy. 16.

Mr. Hawkins stated that the applicant is proposing to start development of an outparcel immediately, but the main shopping center would not be built for three to four years.

He stated that his recommendation to the applicant was for him to rezone the whole 27 acres, to undo the previous plan that was approved, to look at the traffic impact of the total development and to design the access points and address the issues as part of the master plan.

Mr. Hawkins stated that after talking with the County Attorney, it is their department's position that the state statute on vested rights would require the applicant to comply with any overlay district that is imposed before an actual zoning or building permit is applied for and also comply with any general regulations that apply to properties across the county or in that zoning district.

Chairman Patton opened the public hearing concerning Conditional Zoning No. 2009-1 – ITAC 129, LLC, applicant.

Walter Fields stated that this is a 27 acre site that is already zoned for business and well suited for a shopping center such as is being proposed. He said this shopping center will be built in phases, there is a utility limitation currently. Two parcels can currently be developed, but no sewer is available for the rest of the site. Mr. Fields stated that the

traffic study has been included and improvements will be made. Mr. Fields reviewed the site plan.

Commissioner Arena asked if two driveway access cuts are needed on Webbs so close together. Mr. Fields stated that this will be built in phases and there needs to be access fairly early on, but the remainder of the internal street network will not be completed at that time.

Commissioner Arena stated that there are no elevation drawings or site plan layouts for the first two outparcels developed. He asked if the applicant would accept conditional approval on the on the overall parcel with the condition that the applicant comes back with outparcel approvals as they are developed.

Mr. Fields stated that the design manual has all this information in it. He said a county staff person will be involved in the group that makes the decision about what can be built.

Gary Garlow asked why was the area was defined as it is for the traffic impact study. He said west of Hwy. 16 has been left off. He stated that he has problems with the traffic impact study.

Mr. Fields stated that they do not get to say what is in the traffic impact study, DOT does.

Chairman Patton announced that he is employed by Harris Teeter but does not stand to receive any monetary gains from this.

Ted Barnes stated that he developed Byers Creek and the issue there is that tenants are not doing what they are supposed to do as far as signage.

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.

The BOC took a five minute recess and Chairman Patton called the meeting back to order.

Chairman Patton read an email he received from the NC National Guard.

**Budget Public Hearing:** Chairman Patton declared the budget public hearing open.

David Heafner, 2093 Boy Scout Road, Lincolnton, spoke on behalf of Susan Spake, who does a great job. He asked everyone in the audience who supports Ms. Spake to stand.

Steve Valentine, 1447 Arden Drive, stated that he emailed thoughts on Susan's job to the Board. He stated that Lincoln County has been his home for 57 years and he has been involved in emergency services for 35 years. He said you never think anything will happen, but this is something that cannot be part time.

Rodney Seagle, speaking on behalf of the Fire and Rescue Association, stated that having somebody part time may create a problem getting help there, because if something major happens they need somebody then. He stated that he does not want to go backwards and would like the Board to reconsider the Emergency Management Director's position.

Joe Kiser stated that he is still wondering out of the 600 employees why the Emergency Management Director's position is being eliminated. He stated that the Board is very wrong saying the County does not need an Emergency Management Director. He said the county will lose grant money. Mr. Kiser asked the Board to please reconsider.

Billy Marsh, spoke on behalf of Communities in Schools in Lincoln County, and keeping their money in the county's general fund. He stated that they work with kids who are at risk of dropping out of school and brought in \$210,000 in grant funds last year.

Audra Ellis, Court Counselor, stated that she is here in support of CIS as the current Chair of the CIS Board. She emphasized the impact of lost funding on their programs.

Peter Capece, stated that he is talking to the Board as an Attorney who represents youth. He said he is the Chair-elect on CIS. Mr. Capece stated that it is critical to have this \$55,000 dedicated funds from the county.

Kevin Heavner stated that he is addressing the Board on behalf of the Howard's Creek Fire Department's budget. He reassured the Board that they are aggressively working to achieve their goal of a new facility and apparatus. He said these goals can only be met with the Board's support.

Clyde Ledford stated that he is here in support of Susan Spake and her position. He said losing this position would be a step backward for Lincoln County.

Mike Hill, stated that he is speaking on behalf of Emergency Management Director's position. He said it is a mistake to cut this position and asked the Board to take this into consideration.

Cynthia Williams stated that she is here on behalf of CIS and spoke concerning the programs that CIS has.

Karen Carnes, spoke on behalf of Susan Spake, saying Lincoln county needs a full time Emergency Management Director.

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

**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.

Rudy Bauer stated that the pictures are still the same at Burton Creek. He stated that if something isn't done in the next few weeks, he's going to go fix the problem for his cove.

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

**Presentation and Recommendation by Stewart, Cooper, Newell Architects on the Bank of America Building; and possible action on exercising the option to purchase contained in the current lease:** Jim Stumpo and Phil Phieler gave a Power Point Presentation concerning the purchase of the Bank of America building.

Mr. Stumpo said in looking at the needs of the county, they feel it is a very important decision due to the fact that the different departments that are currently in the downtown area need to remain there. The Bank of America building is a solution that will provide this space in a cost effective way in today's dollars in purchasing the facility and the minimum upfit needed.

Commissioner Arena asked if the lease can be renewed. Mr. Wood stated that it can be renewed for three or five years. There is currently a problem with the heating and air system, but the county has not wanted to spend a lot of money on the building during the lease.

Commissioner Mitchem asked if there is a recommendation where people will park if the county purchases the Bank of America Building. Mr. Wood stated that a bond has been approved to demolish the old jail and a parking lot with 58 spaces would be there.

The Board agreed to put this on the agenda for the next meeting, after talking to the landlord to see if the deadline could be extended.

**Request for Additional Income Maintenance Caseworker – Susan McCracken:** Susan McCracken stated that as part of the Federal ARRA allocations, the Department of Social Services has received \$36,991. These funds were allocated to support, exclusively, the Food and Nutrition Services program. It is this program where the increase has been the most severe as the demand most critical.

These funds will be received in two increments. The first \$36,991 is now available and must be sent before September 30, 2009. A second allocation of, at least, \$36,991 or more will be received October 1, 2009 and must be spent prior to October 2010.

The funds can be used in various ways including 1) Hiring FNS staff to assist with the high increase in applications thus reducing the wait time for benefits, 2) Purchasing the equipment which will include the computer/printer needed by staff, and 3) Support the present FNS administrative staff.

Because of the number of families needing assistance, especially the families most recently unemployed and underemployed (a 73% increase in applications from July to December) and the strong encouragement tied to these funds to create/preserve jobs Ms.



McCracken requesting one full-time position in the Food and Nutrition Services unit. The funds will support the position 100% with no county match required. Any remaining funds will be used to support present staff and offset county funds, thus preserving jobs.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the grant and allow Social Services to hire this employee.

**Resolution #2009-15: A Resolution of the Board of Commissioners of the County of Lincoln, North Carolina, (The "Issuer") Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Tax-Exempt Financings for Certain Expenditures Made and/or to be Made in Connection With the Acquisition, Construction and Equipping of Certain Capital Improvements:** UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Resolution #2009-15: A Resolution of the Board of Commissioners of the County of Lincoln, North Carolina, (The "Issuer") Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Tax-Exempt Financings for Certain Expenditures Made and/or to be Made in Connection With the Acquisition, Construction and Equipping of Certain Capital Improvements

**RESOLUTION #2009-15:**

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN, NORTH CAROLINA, (THE "ISSUER") DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS

WHEREAS, Lincoln County (the "Issuer") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer has paid on or after April 1, 2009, and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the construction of a new waste water treatment facility along with construction of collection lines, force mains, purchase of land, pump stations, and facilities (the "Projects"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina, (the "Board") has determined that those moneys advanced on and after April 1, 2009 and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds for one or more issues of tax-exempt financing (the "Financing");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the proceeds of Bond Funds for the Expenditures with respect to the Project made on and after April 1, 2009. The Issuer reasonably expects on the date hereof that

it will reimburse the Expenditures with the proceeds of the Financing.

Section 2. Each Expenditure will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case of the date of the Expenditure), (b) a cost of issuance with respect to the financing, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer as long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Bonds expected to be issued for the above Projects is \$22,000,000, of which \$17,500,000 of state revolving loan funds is currently available.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimus amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 1<sup>st</sup> day of June, 2009.

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Alex E. Patton, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Atkins  
Clerk to the Board

**EXHIBIT A**

## DESCRIPTION OF PROJECT

**Capital Improvement Program** - Construction of new Waste Water Treatment Facility along with the acquisition of land, easements, equipment, improvements, and furnishings necessary to provide a complete and furnished facility. Also includes sewer collection lines and related pump stations and force mains.

**Request for Surplus Vehicle from South Point Lifesaving Crew:** Phillip Bronce and David Pennington requested some county surplus vehicles. He said they are completely volunteer, supported by taxpayer donations. He stated that they are trying to go to a first responder unit and need some vehicles to put to good use.

George Wood stated that he would like to make sure all in-county requests are honored first, and if there are extras, he could bring this back before the Board.

**Other Business:** **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to appoint Ms. Judi Morton and Gisella Busse to the Centralina Workforce Development Board.

**Closed Session – Personnel:** **UPON MOTION** by Commissioner Arena, the Board voted unanimously to enter closed session pursuant to N.C.G.S. 143-318 11 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.

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

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Alex E. Patton, Chairman  
Board of Commissioners