

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, AUGUST 3, 2009**

The Lincoln County Board of County Commissioners met on August 3, 2009 at the Citizens Center Auditorium, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

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

Planning Board Members Present:

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

Others Present:

George A. Wood, County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Kelly Atkins, Planning and Inspections Director  
Randy Hawkins, Zoning Administrator  
Andrew Bryant, Planner  
Burns Whittaker, Public Works Director  
Leon Harmon, Finance Director

**Call to Order:** Chairman Patton called the August 3, 2009 meeting of the Lincoln County Board of Commissioners to order.

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

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

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt the agenda adding Item 5a – Resolution Concerning County Property.

## AGENDA

### LINCOLN COUNTY BOARD OF COMMISSIONERS

August 3, 2009

- 6:30 PM Call to Order
- 6:31 PM Invocation – Chairman Patton
- 6:32 PM Pledge of Allegiance
1. 6:33 PM Adoption of Agenda
  2. 6:35 PM Consent Agenda
    - Approval of Minutes
      - July 20, 2009
    - Tax Requests for Releases – More than \$100
      - June 16 - July 15, 2009
    - Budget Adjustments 2 - 10
    - 2009 Employee Holiday Schedule
  3. 6:40 PM Zoning Public Hearings – Randy Hawkins
    - PCUR #110A-2 Burton Creek Investment, LLC (Parcel ID# 88709-88731) A request to amend a conditional use permit to waive or lower the amount of a required bond or letter of credit to cover the cost of removal of sediment determined to have been deposited in Lake Norman from the Burton Creek development. The 250-acre development is located south of Webbs Road, north of Blades Trail and west of Burton Lane in the Catawba Springs Township
    - CUP #289 Denver United Methodist Church, applicant (Parcel ID# 82454) A request for a conditional use permit to allow lighted ballfields in the R-SF (Residential Single-Family) district. The 3.4-acre parcel is located on the south side of Cedar Street about 300 feet north of Hwy. 16 in the Catawba Springs Township
    - CUP #290 Play Time RV, applicant (Parcel ID# 30256) A request for a conditional use permit to allow a boat and RV sales lot in the B-N (Neighborhood Business) district. The 0.74-acre parcel is located on the west side of Hwy. 16 about 250 feet south of Old Plan Road in the Catawba Springs Township
    - ZMA #573 Doug Pruitt, applicant (Parcel ID# 02300) A request to rezone a 6.7-acre parcel from I-G (General Industrial) to B-G (General Business). The property is located on the west side of Hwy. 16 about 500 feet south of Natalie Commons Drive in Catawba Springs Township.

ZMA #574 Boucardon, LLC, applicant (Parcel ID# 56205) A request to rezone a 68-acre parcel from R-T (Transitional Residential) to I-G (General Industrial). The property is located on the west side of Rufus Road and the east side of the new four-lane Hwy. 16 in the Catawba Springs Township.

ZTA #575 Lincoln County, applicant A proposal to amend various sections of the Lincoln County Unified Development Ordinance as the result of a comprehensive review of the ordinance by the Planning Board and staff at the direction of the Board of Commissioners. The Unified Development Ordinance was adopted in November 2008 but has not been put into effect pending completion of the review process. The ordinance combines zoning, subdivision, watershed and floodplain regulations under one ordinance, and includes new regulations regarding development standards, landscaping, signs and other issues

4. 8:40 PM 2010 Decennial Census - Andrew Bryant
5. 8:50 PM Hazard Mitigation Plan Update - Andrew Bryant
6. 9:00 PM Public Comments
7. 9:15 PM Public Hearing - Economic Incentive Grant for Existing Industry Resolution #2009-21: Resolution to Adopt Economic Incentive Grant Agreement - Mitch Miller
- 7a. Public Hearing to receive public comments on Lincoln County's application for \$400,000 in Community Development Block Grant (CDBG) funds from the North Carolina Department of Commerce Division of Community Assistance for housing improvements
8. 9:25 PM Request for Ambulance Purchase Under Piggyback Bid Resolution #2009-22: Resolution to Approve Purchase of Ambulances
9. 9:35 PM Resolution #2009-23: Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator
10. 9:45 PM Order Directing the Tax Collector to Collect the Taxes Charged in the Tax Records and Receipts
11. 9:55 PM Motion to Authorize the Chairman to Execute the First Amendment to Lease Agreement for the Bank of America Building
12. 10:05 PM Change Order Three: Lincoln County Industrial Park Wastewater Improvement - Burns Whittaker
13. 10:15 PM Motion to Approve Ordinance #2009-5: An Ordinance Adopting the County of Lincoln, North Carolina Code of Ordinances
14. 10:25 PM Motion to Approve a Supplemental Appropriation for the Lincoln County Board of Education, and possible other appropriations
15. 10:35 PM Other Business

Adjourn

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

- Approval of Minutes
  - July 20, 2009
- Tax Requests for Releases – More than \$100
  - June 16 - July 15, 2009

NAME	YEAR	A/C NO	AMOUNT
Baxter, Diana (Graphics) DBA	2008	0163345	\$248.60
Davis, Nathan H	2009	0188402	\$312.38
Dream Builders Investments	2009	0181969	\$107.48
Farley, Michael P	2009	0204414	\$171.07
First Impression Auto Sales	2009	0208308	\$690.00
Goins, Holly Britt	2009	0130264	\$167.97
Harrill, Dorothy Carpenter	2009	0177458	\$3,249.53
Kiss 95.1	2008-2009	0177674	\$297.13
Long, Katherine A Life Estate	2009	0180870	\$390.02
Loveland, Robert	2009	0188191	\$110.82
Ramsey, Marcus David	2009	0122857	\$282.53
Robinson, Donna Alesia	2009	0072886	\$360.50
Shoup, Richard Allen	2005-2009	0103982	\$590.37
Westra Wellness Center	2008	0208788	\$932.25
Williams, Robert D	2008	0162589	\$137.24
		<b>TOTAL</b>	<b>\$8,047.89</b>

NAME	YEAR	A/C NO	AMOUNT
A Sani Can Service Inc.	2008	0070782	\$210.58
Balance, Carol Sellers	2009	0211981	\$148.48
CLT Express Livery LLC	2009	0201563	\$148.25
Destination Bus Charter LLC	2009	0220331	\$833.39
EDY-MAC Plumbing Service	2008	0217810	\$339.68
Enterprise Leasing Company SE	2009	0195515	\$188.26
Green Sword Landscape Design	2007	0126145	\$604.86
Howard, Blake A	2008	0161795	\$216.69
Mull, James Scott	2008	0205357	\$253.43
Rash, Deborah Foust	2009	0219886	\$144.73
Rhton, Larry Lee	2009	0217418	\$134.25
Schronce, Billy Gene	2009	0190210	\$153.56
Smith, Edgar W	2009	0215929	\$135.28
Whitener, Adam Jacob	2009	0127185	\$195.61
		<b>TOTAL</b>	<b>\$3,707.05</b>

- Budget Adjustments 2 - 10

- #02: Budget fund balance under correct account
  - #03: Encumber revenue received in FY08-09 for insurance settlement
  - #04: Receipt of ASPR Grant thru NCOEMS; Expenditure for ASPR grant funds
  - #05: Encumbrances June 2009 – Funds collected/remitted to State
  - #06: Transfer developer contribution for school construction collected thru P&I to Capital Reserve for future school projects/debt service 08-09
  - #07: Budget for collection of fines payable to schools
  - #08: Budget for collection of fines payable to schools
  - #09: Carry over grant funds
  - #10: Budget for former Band of America building rent for balance of year
- 2009 Employee Holiday Schedule

### **New Business/Advertised Public Hearings:**

Chairman Patton announced that this was the date, Monday, August 3, 2009, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on July 24 and 31, 2009.

### **NOTICE OF PUBLIC HEARINGS**

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, August 3, 2009, at 6:30 p.m. to consider the following matters:

PCUR #110A-2 Burton Creek Investment, LLC (Parcel ID# 88709-88731) A request to amend a conditional use permit to waive or lower the amount of a required bond or letter of credit to cover the cost of removal of sediment determined to have been deposited in Lake Norman from the Burton Creek development. The 250-acre development is located south of Webbs Road, north of Blades Trail and west of Burton Lane in Catawba Springs Township.

CUP #289 Denver United Methodist Church, applicant (Parcel ID# 82454) A request for a conditional use permit to allow lighted ballfields in the R-SF (Residential Single-Family) district. The 3.4-acre parcel is located on the south side of Cedar Street about 300 feet north of Hwy. 16 in Catawba Springs Township.

CUP #290 Play Time RV, applicant (Parcel ID# 30256) A request for a conditional use permit to allow a boat and RV sales lot in the B-N (Neighborhood Business) district. The 0.74-acre parcel is located on the west side of Hwy. 16 about 250 south of Old Plank Road in Catawba Springs Township.

ZMA #573 Doug Pruitt, applicant (Parcel ID# 02300) A request to rezone a 6.7-acre parcel from I-G (General Industrial) to B-G (General Business). The property is located on the west side of Hwy. 16 about 500 feet south of Natalie Commons Drive in Catawba Springs Township.

ZMA #574 Boucardon, LLC, applicant (Parcel ID# 56205) A request to rezone a 68-acre parcel from R-T (Transitional Residential) to I-G (General Industrial). The property is located on the west side of Rufus Road and the east side of the new four-lane Hwy. 16 in Catawba Springs Township.

ZTA #575 Lincoln County, applicant. A proposal to amend various sections of the Lincoln County Unified Development Ordinance as the result of a comprehensive review of the ordinance by the Planning Board and staff at the direction of the Board of Commissioners. The Unified

Development Ordinance was adopted in November 2008 but has not been put into effect pending completion of the review process. The ordinance combines zoning, subdivision, watershed and floodplain regulations under one ordinance, and includes new regulations regarding development standards, landscaping, signs and other issues.

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.

**Parallel Conditional Use Request No. 110A-2 – Burton Creek Investment LLC,**

**applicant:** Randy Hawkins presented the following information concerning Parallel Conditional Use Request No. 110A-2.

The applicant is requesting an amendment to a conditional use permit to waive or lower the amount of a required bond or letter of credit to cover the cost of removal of sediment determined to have been deposited in Lake Norman from the Burton Creek development. In approving changes in the plans for the development in 2006, the Board of Commissioners required as a condition that the developer provide a bond or letter of credit to comply with the condition, but the letter of credit expired on March 23, 2009, and has not been renewed. The applicant has been issued citations for violating the conditional use permit, and civil penalties are being assessed. Building permits cannot be issued until the matter is resolved.

The 250-acre development borders Blades Trail, Burton Lane and Webbs Road. It is adjoined primarily by property zoned RL-20 Single-Family and R-SF (Residential Single-Family). Land uses in this area are predominately residential. The Lincoln County Land Use Plan designates this area as Suburban Residential.

Mr. Hawkins presented a letter from a citizen to the Planning Board and Board of Commissioners. Staff obtained some estimates for dredging costs and looked at a worst case scenario (for all 4 coves).

Commissioner Klein asked if monthly readings have been taken. Mr. Hawkins stated that three of the coves had no changes, but the one farthest west had some sediment found around that last September in cove #4 after a rainfall of approximately 8 inches. After the rainfall event, NCDENR came out and a sediment basin has failed as a result of the rain event. There was sediment in the woods below the sediment basin, but they found no evidence that any sediment made it's way into the lake.

Rick McSwain stated that there has been a fine assessed on Burton Creek, maybe \$1,000. Commissioner Klein asked if the developer is asking to waive the penalties. Mr. Hawkins stated that he is. Mr. Hawkins stated that the penalties are a separate issue from the zoning request.

Chairman Patton opened the public hearing concerning Parallel Conditional Use Request No. 110A-2 – Burton Creek Investment LLC, applicant.

David Baxter, 3978 Burton Lane, stated that when the developer was given the original conditions, it was to protect the area. He said he does not understand why there should be a reduction when they obviously violated some of the principles already. He said they basically stripped the entire 200-plus acres. He said this impacted the environment tremendously. He said they should not be able to reduce their obligations and if anything it should be increased based on their track record.

Larry Blackwell, 4025 Burton Lane, stated that he lives 600 yards from Burton Creek. He said he bought his home in 1981 and he has seen a lot of water flow out of the pipe. He said he has never seen anything like has come out since they clear-cut the land. He said he can't understand why sediment measurements were not taken before. He said his cove has not been measured. He said the money set aside when this was first presented will not be enough to cover worst case scenario.

Jack Helder, 314 North Haynes Street, said he is one of the developers of Burton Creek. He said this amendment was issued in 2006/2007 and was to lower the number of lots. The bond for the coves was an afterthought at that point. It was easy to get Letters of Credit at that point. The LOC was only available for a limited amount of time and now they cannot get another one. He asked if there could be an agreement concerning protecting the county. He said all the sedimentation devices are now in place with ground cover and the first 93 lots have been developed. The sewer issues put them behind about a year. He said to obtain a letter of credit at this point is not possible, they do not even have a builder yet. He said they are here asking for some help.

John Stalzer, 7880 Howard Lane, stated that when they first moved here, they made improvements to the landscaping at the lake. It was close to \$10,000 to do this work. He said they are at the end of the cove and no dredging companies want to do this job. He said it will cost around \$25,000 to get the cove dredged. He said his dock is now sitting on mud. He said he just learned that his cove is not even on the list to be monitored. Mr. Stalzer presented pictures of the cove.

Gary Eudy, 3916 Fox Run, stated that he lives in the easternmost cove next to Burton Creek. He said his property is about 100 feet from the outlet pipe, a steel pipe going under the road and he has noticed since Burton Creek a great amount of sedimentation. They clear-cut the whole development. The monitoring devices were put in after the area was clear cut and are placed at the end of the pipes. He said there should have been a topographic survey done of the whole cove by a certified engineering firm. Mr. Eudy said there is a good bit of silt in his cove. He said he ate breakfast at a table beside the project manager for the developer who was talking about coming in at night doing illegal work to the siltation devices in the area. He said if anything, the bond should be tripled. Mr. Eudy said this silt is coming from this development due to negligence.

Martin Oakes, 8057 Lucky Creek Lane, stated that the county should be canceling the project, if he cannot get a bond then let him cancel the project. He said we could take a million dollar lien on the property as an alternative.

Don Voigt, 1984 Yacht Club Drive, said it appears to him that the developer has already demonstrated by letting the bond lapse that he is not reliable. To reduce or release the bond would be unconscionable.

Ann Michael, 8106 Blades Trail, respectfully asked that the Board deny Burton Creek Investment, LLC's request to reduce or eliminate the \$500,000 bond. This bond was originated to dredge negatively impacted coves and there is proof that there has been cove damage. The original bond was based on an estimated worst case scenario. Ms. Michael said residents have maintained photos and other documents alleging the development impacts six coves, not just the four included. Ms. Michael stated that the residents did not have a problem until Burton Creek Investment, LLC leveled the property. The silting and runoff continues to cause property and lake damage. She respectfully requested that the Board ask that the acreage be replanted with hardwoods and pines with the percentage of each as determined by Elizabeth Snyder with North Carolina Forestry. Ms. Michael requested accountability as to why the irrevocable standby line of credit with First Charter and their new owner, Fifth-Third Bank, was not cashed out by Lincoln County, the beneficiary just before the 12-month expiration. In addition, Ms. Michael requested the County investigate more binding instruments to guarantee monies are immediately available to satisfy contracts of this nature. She said at the very least the \$500,000 bond should be maintained.

Lee Elchak, 8238 Blades Trail, said in 2001, he had his dove dredged. He said all the area was dredged to 9 feet at full pond. He said he re-measured ranges from over 3 feet to 1 ½ feet. He said there is definitely a sediment problem and this is data that says there is sediment coming into the lake. He asked the Board to please not reduce the bond.

Glenn Fiscus, 3857 Fox Run, stated that the developers have history. He said Burton Creek has been a serial violator of the covenants. He said Burton Creek is ill-equipped to handle this project and are in over their heads. He said the bond will probably not be enough to dredge the coves. Mr. Fiscus asked the Board to kill the whole project.

Blair Olmstead, 4674 Lake Shore Road North, stated that he and his wife regularly swim in this cove. He presented a letter from Clara Alexander, which says it sounds like this company does not have the credibility or money to remove the sediment. Mr. Olmstead questioned what kind of homes would be put in there if they do not have the money to proceed. He requested that the Board vote no and asked for the trees to be replanted.

Rudy Bauer, 8252 Blades Trail, presented bottles of water from his cove to show different levels of sediment in the lake water.

Dick McDonald, 4005 Burton Lane, stated that he is one of several shoreline owners. He said he worked for 28 years for two large corporations as an environmental professional and was responsible for the design, construction, operation and maintenance of sediment ponds. He stated that stronger standards can be required especially under the Clean Water Act. He requested that the Board to change regulations.



Joe Franck, 8032 Blades Trail, presented pictures of his cove, which is cove #4. He said they have proof in the form of hours of video and hundreds of photos that shows sediment going into the coves. He presented pictures of damage done by the water and sediment. Mr. Franck presented a letter from the developer from September 18, 2007 saying they were going to dredge the area, but were unable to get a barge in there due to the low water levels at that time. It has been 885 days since the rainstorm and it still has not been dredged. He said the developer sure has not stood behind what he said he would do with regards to their situation. He said now is not the time to rescind their bond, but is time to make the developer responsible for the damage that has been done.

David Merryman, Catawba Riverkeeper, stated that Burton Creek is an eyesore and a detriment to the quality of water. He said after flying in a plane over the lake, the sediment from Burton Creek is evident.

Tommy Touchstone, 7826 Blades Trail, stated that he is a Civil Engineer. He said this has been a continuing saga. He said that he hopes most of his neighbors are not totally against the project. He said if this continues, property owners will lose property value and the county will lose tax money. He said they need to work out an agreement with the developer. He said he will be in favor of not penalizing if he will reestablish the bond. He said he just wants to protect his assets.

Henry Fogle, 8112 Blades Trail, President of the Westport Community Association, stated that in Lincoln County if you damage someone's property, you have to repair it. He said ineffective devices have received several inches of silt. He said the bond is needed to assure repairs are made now and in the future.

An unnamed citizen asked why the developer clearcut the land and why it was an afterthought to place silt fences to protect from sedimentation. He asked why they are being fined if there are no violations. He asked why all these people are here complaining if the coves are being monitored properly.

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

**Conditional Use Permit No. 289 – Denver United Methodist Church, applicant:**

Randy Hawkins presented the following information concerning Conditional Use Permit No. 289 – Denver United Methodist Church, applicant.

The applicant is requesting a conditional use permit to allow private outdoor recreational facilities, specifically, lighted ballfields, in the R-SF (Residential Single-Family) district. Under the Zoning Ordinance, private (that is, privately owned) outdoor recreation facilities are permitted in the R-SF district subject to the issuance of a conditional use permit.

The 3.4-acre parcel is located on the south side of Cedar Street about 300 feet north of Hwy. 16. It is adjoined by property zoned R-SF and B-N (Neighborhood Business).

Land Uses in this area include a manufactured home park, single-family homes, and businesses. The Lincoln County Land Use Plan classifies this area as Mixed Residential Commercial, an area intended to become a mixed-use village consisting of higher-density residential uses and associated office and retail uses.

This issue came to staff's attention in May as a result of a complaint by a neighbor. Staff contacted the church to inform them that a Conditional Use Permit was required. When the ballfields were constructed, they did not require a building permit. At some point last year, an electrical permit was applied for and issued without the scrutiny that should have been given. Then the lights were installed.

Chairman Patton opened the public hearing concerning Conditional Use Permit No. 289 – Denver United Methodist Church, applicant.

Patricia Austin, 6513 Cedar Street, stated that she lives across the street from the ballfields and would not have purchased her home had this been there before. She said these are stadium lights and she doesn't know of another softball field that has lights of this magnitude. She said there is no wooded area whatsoever and she can hear traffic from Highway 16. She said this has been a nightmare for them.

Clayton Austin, 6513 Cedar Street, said that he finds lacrosse balls in his yard. He said if these balls would hit someone, it would kill them. He asked the board for stringent conditions and light/sound buffers if this is approved. He said they do not want to go up against the church, but says they were informed by the church earlier that there would be no lights. He said no notice was given to any of the neighbors.

Stephen G. Knopp, Pastor of Denver United Methodist Church, said the church has a goal to provide full spiritual and physical wellness and given the recent growth at the church, there was the need to install the ballfield. He said the ballfield helps the entire community. Mr. Knopp said a buffer will be installed and the lights will not be used after 9:30 p.m. if the project is approved. He said the project was completed by a contractor and it was a turn-key operation. They were not aware that a permit was needed.

Artis Boyd, Chairman Administrative Board of Denver United Methodist Church Board, stated that when the neighbor in question complained, they talked to them and made some offers such as to plant trees as buffer. He said they are proposing putting in fast growing trees as buffers. He said this is the one neighbor that has not been able to agree to the proposals from the church. He asked for the lights to be allowed to be on until 9:30 p.m. to allow people to safely depart after games end.

Commissioner Arena asked if people camp overnight on the field.

Steven Knopp said that this was a campout the Boy Scouts had and was only one occasion.

Mr. Wood asked if the lights have been calibrated and if they will have the contractor come back to adjust them.

Steven Knopp said the contractor has come back, but was just looking at lighting of the field. They have offered to come back to try and reduce ambient lighting.

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

**Conditional Use Permit No. 290 – Play Time RV, applicant:** Randy Hawkins presented the following information concerning Conditional Use Permit No. 290 – Play Time RV, applicant.

The applicant is requesting a conditional use permit to allow a boat and RV sales lot in the B-N (Neighborhood Business) district. Under the Zoning Ordinance, boat and vehicle sales lots are permitted in the B-N district subject to the issuance of a conditional use permit.

The 0.74-acre parcel is located on the west side of Hwy. 16 about 250 feet south of Old Plank Road. It is adjoined by property zoned B-N and I-G (General Industrial). Land uses in this area include businesses, an industry and single-family homes. This property is located partially in an area classified by the Lincoln County Land Use Plan as Neighborhood Business, appropriate for small-scale retail and service establishments.

Chairman Patton opened the public hearing concerning Conditional Use Permit No. 290 – Play Time RV, applicant.

Clayton Gloger stated that they are a family business and would like to be able to carry the newest things. He said they do not want to do anything to harm the community. He said he moved to this site in May and was told at the time by the realtor that no conditional use permits were needed.

Jim McHargue stated that he owns the adjacent property and has been there since the spring of 1995. He said multiple businesses have been on the property and this is the first one they welcome. He said there have been no negatives, no noise or traffic issues.

Shelton Stevens stated that he is an 11 year resident and there are safety hazards from the boats and rvs being placed in the front yard. He said both he and his wife have narrowly missed being involved in accidents due to motorists looking at rvs/boats instead of watching the road. Mr. Stevens asked if it would be possible for the rvs and boats to be moved to the back yard. He shared photos of boats and rvs parked in the front yard.

Loy Dellinger stated that he is a lifelong resident of Lincoln county and owns the adjacent lot to this parcel. He said Play Time put their sign on his property and have been in violation since day one. He said stuff is in the right of way. He respectfully requested that the Board not approve zoning laws they have already violated.

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

**Zoning Map Amendment No. 573 – Doug Pruitt, applicant:** Randy Hawkins presented the following information concerning Zoning Map Amendment No. 573 – Doug Pruitt, applicant.

The applicant is requesting the rezoning of a 6.7-acre parcel from I-G (General Industrial) to B-G (General Business).

This property is located on the west side of Hwy. 16 about 500 feet south of Natalie Commons Drive. It is adjoined by property zoned I-G, R-SF (Residential Single-Family) B-G and B-N (Neighborhood Business). Land uses in this area include businesses, a church and a manufacturer. 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, access management and preventing certain “heavy” or unsightly uses from locating along the corridor.

Gary Garlow, Planning Board member, asked if any consideration was given to B-G instead of B-N. Mr. Hawkins stated that B-G was recommended because most of the surrounding property was B-G.

Chairman Patton opened the public hearing concerning Zoning Map Amendment No. 573 – Doug Pruitt, applicant.

Lou Gias stated that the gentleman who bought the Natex building did all the things he was supposed to do with his business. He said now the county wants to change the zoning on the property next door for a business that puts on concerts. Substantial work has been done on the property without the proper permits.

Richard Ceorone said he purchased the Natex building in February and has 1.4 million invested in the facility. He plans to move his business here in October. Mr. Ceorone stated that he is concerned about the rezoning. He said he and the property in question share a driveway.

John Anderson spoke on behalf of the project, but said he could understand the concerns. He said he met with the owner who wants to create a music center where parents can bring their kids and have a safe place for kids to go. He said that this could be used for birthday parties and events for kids.

Doug Pruitt, owner of the property, stated that there is an addition four acres and there is the concept for an additional driveway.

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

**Zoning Map Amendment No. 574 – Boucardon, LLC, applicant:** Randy Hawkins presented the following information concerning Zoning Map Amendment No. 574 – Boucardon, LLC, applicant. .

The applicant is requesting the rezoning of a 68-acre parcel from R-T (Transitional Residential) to I-G (General Industrial).

This property is located on the west side of Rufus Road and the east side of the new four-lane Hwy. 16. It is adjoined by property zoned I-G and R-T. Much of the land in this area is undeveloped. The Lincoln County Land Use Plan classifies this property as Industrial, designed for future industrial/manufacturing and warehousing uses. This property is part of a larger area that's planned for development as an industrial/business park.

Chairman Patton opened the public hearing concerning Parallel Conditional Use Request Zoning Map Amendment No. 574 – Boucardon, LLC, applicant.

Judith Lee stated that she owns the property that is west of this proposed site. She said she bought the place because it was a nice, quiet residential neighborhood. She said opening up Rufus Road would totally change the neighborhood. She voiced concerns about the environmental damage and property values.

Tommy Sherman stated that he is protesting this because of the environmental concerns. He said there are a lot of kids and animals on this road and he does not think it should be passed.

Mitch Miller, from Lincoln Economic Development Association, stated that he has worked with the property owner to look at development of this property. Some of the property is looked at to be a hub for industrial properties looking to locate there. This will be a high-class development project and the developers have worked with EDA, NDCOT, and Planning and Inspections. He said Rufus Road will be used, but Optimist Club will be the access used.

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

**Zoning Text Amendment No. 575 – Lincoln County, applicant:** Randy Williams presented background information concerning Zoning Text Amendment No. 575.

Commissioner Arena recommended going back to the open space requirements in the existing ordinance.

Chairman Patton opened the public hearing concerning Zoning Text Amendment No. 575 – Lincoln County, applicant.

Michael Martin stated that especially during an economic crisis, citizens should be able to do what they want with their land. He said the government should not be able to tell people what to do on their land.

Brad Whitley, speaking on behalf of the Lincoln County Board of Realtors and the Land Use Development Board, thanked Kelly Atkins and staff for their hard work on the UDO. He also thanked the Planning Board and Board of Commissioners. He said they support the idea of the UDO and the changes certainly show significant improvements in the requirements of the UDO. He said they still have concerns about the open space requirements.

John Anderson spoke on behalf of the Denver Area Business Association. He stated that they appreciate the time staff has put into the UDO. He said the DABA supports the passage of the proposed UDO confident that the county will continue working with citizens and businesses making necessary adjustments to make the UDO even more compatible with the needs of the community.

Maeneen Klein spoke on behalf of ELBA. She said ELBA has had representatives at every UDO workshop. She applauded county staff in their professionalism and said the UDO offers protection for property owners. She said East Lincoln citizens have had to live with the consequences of a hands-off board. She said ELBA supports higher standards in the UDO and urges passage of the UDO without changes.

Milton Sigmon spoke concerning the short notice for the UDO meetings and pointed out areas of concern in the UDO.

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

Chairman Patton announced that the Board of Commissioners would reconvene to the third floor.

**Resolution #2009-24: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Property:** George Wood presented the following resolution for the Board's approval:

**RESOLUTION 2009-24: RESOLUTION TO  
AMEND LINCOLN COUNTY PERSONNEL POLICY  
WITH RESPECT TO THE USE OF COUNTY PROPERTY**

WHEREAS, Section 153A-169 of the North Carolina General Statutes gives the Board of Commissioners the authority to supervise the maintenance, repair, and use of all county property; and

WHEREAS, the said statute further provides that the Board may issue orders and adopt by resolution regulations concerning the use of county property; and

WHEREAS, the Lincoln County Personnel Policy adopted by resolution of the Board of Commissioners in 2005 and made effective on September 1, 2005, contains provisions regulating the use of county property; and

WHEREAS, the Board believes that it is necessary and desirable to amend the existing provisions of the Personnel Policy as herein provided in order to address the possession and use of county property under certain circumstances;

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

1. That pursuant to Section 153A-169 of the North Carolina General Statutes, the Lincoln County Personnel Policy is amended as follows:

(a) Article V, Section 11 B is amended to read:

Use of a County owned vehicle is neither a right nor a privilege, but a trust conferred to facilitate the necessary performance of duties. County owned vehicles shall be assigned and used only in the performance of official duties and not for any personal use, except as provided by directives from the County Manager. *Employees who are placed on any disciplinary or administrative suspension or leave for any period of time shall immediately return all county vehicles in their possession to their work site or other location directed by the County Manager.*

(b) Article V, Section 11 is further amended to add the following subsection:

*E. Employees who are placed on any disciplinary or administrative suspension or leave for a period of time longer than three work days shall immediately return to their immediate supervisor all other County owned property in their possession, including, but not limited to, communications equipment, tools, computers, firearms, and other items of personal property assigned to them for the performance of their duties.*

2. That these amendments shall become effective on August 4, 2009.

Adopted this 3<sup>rd</sup> day of August, 2009.

LINCOLN COUNTY

By: \_\_\_\_\_  
Alex E. Patton, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Atkins, Clerk to the  
Board of Commissioners

**UPON MOTION** by Commissioner Arena, the Board voted unanimously to approve Resolution #2009-24: Resolution to Amend Lincoln County Personnel Policy with Respect to the Use of County Property.

Chairman Patton called for a ten minute recess and then called the meeting back to order.

**Hazard Mitigation Plan Update – Andrew Bryant:** Andrew Bryant stated that the Hazard Mitigation Plan Update Steering Committee has been working diligently to revise the 2004 Lincoln County Hazard Mitigation Plan. The 2004 plan was the initial plan complied by the county and a mandatory revision is due. The items within the plan in most need of attention were the facts, figures, and statistics regarding Lincoln County's previous hazard events. The steering committee also chose to include more detailed information about the city of Lincoln and their ordinances and how they help protect the community from natural hazards. The city and county have both added and or revised ordinances and policies since the initial plan that minimize the effect of natural disasters and those changes have also been noted in the plan.

The committee has endorsed the contents of the plan to move forward to the Board of Commissioners for tentative approval. Once tentative approval is gained the plan will be forwarded to North Carolina Emergency Management (NCEM) and Federal Emergency Management Association (FEMA) for their review. After approval of both agencies the plan will be returned for Lincoln County to make any requested revisions. A final approval will be in order around January of 2010 so that a revised plan can be in effect by March of 2010.

The Planning Board recessed their meeting to the Commissioners Room on the third floor.

**2010 Decennial Census – Andrew Bryant:** Andrew Bryant stated that the planning process for the 2010 Decennial Census is well underway. He asked for the Board's support of the following Proclamation:

### **2010 Census Partner Proclamation**

**WHEREAS** an accurate census count is vital to our community and residents' well-being by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and achieving an accurate and complete count of the nation's growing and changing population;

**WHEREAS** more than \$300 billion per year in federal and state funding is allocated to states and communities based, in part, on census data;



**WHEREAS** census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures, county and city councils and voting districts;

**WHEREAS** the 2010 Census creates jobs that stimulate economic growth and increase employment;

**WHEREAS** the information collected by the census is confidential and protected by law; Now, therefore, we **PROCLAIM** that **Lincoln County, North Carolina** is committed to partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

1. Support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.
  2. Encourage people in our community to place an emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census.
  3. Support census takers as they help our community complete an accurate count.
  4. Create or seek opportunities to collaborate with other like-minded groups in our community
- by participating in Complete Count Committees and/or utilizing high-profile, trusted voices to advocate on behalf of the 2010 Census.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_.

Signature

Title

**UPON MOTION** by Commissioner Arena, the Board approved the 2010 Census Partner Proclamation.

**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.

Joann Hager played a portion of a tape in which Vickie Rouch said in court that people who bought her animals should be able to get them. She said that she doesn't understand why it take so much effort to get information that should be public information. Ms. Hager questioned whether her lhama is still alive.

Mr. Taylor stated that he has spoken with Jack Kerley who assures him that the lhama is alive and well. He said he would like to listen to this tape recording before he makes anymore statements. He said he didn't recall a discussion in court about the animals being owned by anyone else.

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

**Public Hearing – Economic Incentive Grant for Existing Industry:** Mitch Miller presented information concerning the Economic Incentive Grant for HOF Textiles:

HOF Textiles shall begin installation of a new equipment line for needle punched nonwovens in Lincoln County. Within two years of the agreement, HOF shall make an investment upon such site in machinery and equipment of \$1,500,000, of which \$1,050,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy. Within two years of the date of this agreement, HOF shall provide at such site at least 5 new jobs paying average hourly wages of \$12.00 per hour. The county will provide cash grants to HOF of \$3,890.25 per year for a five-year period.

Chairman Patton opened the Public Hearing concerning the Economic Incentive Grant for HOF Textiles.

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

**Resolution #2009-21: Resolution to Adopt Economic Incentive Grant Agreement - Mitch Miller:** UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Resolution #2009-21.

#### **RESOLUTION TO ADOPT ECONOMIC INCENTIVE GRANT AGREEMENT WITH HOF TEXTILES**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, HOF Textiles, has developed plans for expansion of its manufacturing facility in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

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

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, and HOF Textiles.
2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.
3. This resolution shall become effective upon adoption.

This 3<sup>rd</sup> day of August, 2009.

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Alex E. Patton, Chairman  
Lincoln County Board of Commissioners

ATTEST:

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Amy S. Atkins, Clerk to the Board

### **LINCOLN COUNTY INCENTIVE GRANT AGREEMENT**

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 3<sup>rd</sup> day of August, 2009, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and HOF Textiles., a Delaware corporation (hereinafter referred to as “HOF”).

#### **WITNESSETH:**

WHEREAS, HOF has developed plans for installation of manufacturing equipment in Lincoln County, North Carolina; and

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County’s tax base and providing additional jobs for Lincoln County’s citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect HOF to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before October 31, 2009, HOF shall begin installation a new equipment line for needle punched nonwovens in Lincoln County, North Carolina.
2. Within two years of the date of this agreement, HOF shall make an investment upon such site in machinery and equipment of \$1,500,000, of which \$1,050,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the date of this agreement, HOF shall provide at such site at least 5 new jobs paying average hourly wages of \$12.00 per hour.
4. In consideration of the performance of the aforesaid obligations by HOF, the County will provide cash grants to HOF of \$3,890.25 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to HOF within 30 days after HOF has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level I grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. In the event that the value of the investment actually made by HOF pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.
6. HOF specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, HOF shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

HOF TEXTILES

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary (Corporate seal)

LINCOLN COUNTY

By: \_\_\_\_\_  
Alex E. Patton, Chairman

Board of Commissioners

ATTEST:

\_\_\_\_\_  
Amy S. Atkins  
Clerk to the Board of Commissioners

NORTH CAROLINA

LINCOLN COUNTY

This the \_\_\_\_ day of \_\_\_\_\_, 2009, personally came before me \_\_\_\_\_ and acknowledged that he/she is Secretary of HOF, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/her as its Secretary.

Witness my hand and official stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 2009.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

NORTH CAROLINA

LINCOLN COUNTY

This the \_\_\_\_ day of \_\_\_\_\_, 2009, personally came before me Amy S. Atkins, Clerk to the Board of Commissioners of Lincoln County, North Carolina, who being by me duly sworn says that she knows the common seal of the County of Lincoln, North Carolina and is acquainted with Thomas R. Anderson, who is the Chairman of the Board of Commissioners of Lincoln County, North Carolina, and that she, the said Amy S. Atkins, is the Clerk to the Board of Commissioners of Lincoln County, North Carolina, and saw the Chairman of the Board of Commissioners of Lincoln County, North Carolina, sign the foregoing instrument and affix said seal to said instrument and that she, the said Amy S. Atkins, signed her name in attestation of said instrument in the presence of said Chairman of the Board of Commissioners of Lincoln County, North Carolina.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**Public Hearing to receive public comments on Lincoln County's application for \$400,000 in Community Development Block Grant (CDBG) funds from the North Carolina Department of Commerce Division of Community Assistance for housing improvements:** Andrew Bryant stated that James Luster was not able to be at the meeting tonight. He presented the application rankings for the CDBG funds.

Chairman Patton opened the public hearing. Being no one wishing to speak, Chairman Patton closed the public hearing.

**Request for Ambulance Purchase Under Piggyback Bid Resolution #2009-22:**  
**Resolution to Approve Purchase of Ambulances:** UPON MOTION by Commissioner Arena, the Board voted unanimously to approve the Resolution #2009-22: Resolution to Approve Purchase of Ambulances.

**RESOLUTION #2009-22:  
RESOLUTION TO APPROVE PURCHASE OF  
AMBULANCES**

WHEREAS, Lincoln County operates an Emergency Medical Services System for the residents of Lincoln County.

WHEREAS, In order to operate this Emergency Medical Services System efficiently, it is necessary to purchase ambulances and other associated equipment.

WHEREAS, Lincoln County has a need to purchase three new ambulances to transport patients to medical care facilities.

WHEREAS, Monroe County, Tennessee, after receiving formal bids, approved the purchase of a new ambulance from Northwestern Emergency Vehicles of Jefferson, North Carolina in the amount of \$121,336.

WHEREAS, Northwestern Emergency Vehicles is willing to make available to Lincoln County the same pricing as the contract approved by Monroe County, Tennessee in the amount of \$121,336.

WHEREAS, N.C.G.S. 143-129 allows a local government to piggyback on a previous contract that was awarded through the formal bid process, after a notice of intent of such award has been published.

NOW THEREFORE, BE IT RESOLVED: The Lincoln County Board of Commissioners hereby approves the purchase of three ambulances from Northwestern Emergency Vehicles in the amount of \$364,008 as authorized in N.C.G.S. 143-129.

Adopted this the 3<sup>rd</sup> day of August, 2009.

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Board of Commissioners

**Resolution #2009-23: Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator:** UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution #2009-23: Resolution Accepting the Tax Settlement with the Lincoln County Tax Administrator.

**RESOLUTION #2009-23: A RESOLUTION ACCEPTING THE TAX  
SETTLEMENT WITH THE LINCOLN COUNTY TAX ADMINISTRATOR**

THAT WHEREAS, the Lincoln County Tax Administrator is charged with the collection of all real and personal property taxes for Lincoln County, the East Lincoln County Water and Sewer District, the Fire Districts, and the City of Lincoln; and

WHEREAS, NCGS 105-373 sets out a process whereby the Tax Administrator is to settle with the Board of Commissioners on an annual basis for all taxes charged for collection and those collected and remaining uncollected at year-end; and

WHEREAS, such settlement is to take place before the Tax Administrator can be charged with the collection of the next year's tax collections; and

WHEREAS, the Tax Administrator has prepared the required Settlement and submitted it to the Finance Officer for review; and

WHEREAS, the Tax Administrator has forwarded the required Settlement for approval by the Board of Commissioners;

BE IT RESOLVED, and it is hereby RESOLVED that the Lincoln County Board of Commissioners hereby accepts and approves the Settlement of Taxes prepared by the Tax Administrator's Office, which is attached hereto and incorporated by reference into this Resolution; which includes the write off of \$43,238.10 of Tax Year 1998 property taxes.

Adopted on August 3, 2009.

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Alex E. Patton, Chairman  
Lincoln County Board of Commissioners

ATTEST:

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Amy S. Atkins  
Clerk to the Board

**Order Directing the Tax Collector to Collect the Taxes Charged in the Tax Records and Receipts:** Mr. Wood presented the Order Directing the Tax Collector to Collect the Taxes Charged in the Tax Records and Receipts.

**ORDER DIRECTING THE TAX COLLECTOR**

**TO COLLECT THE TAXES CHARGED IN THE TAX RECORDS AND  
RECEIPTS**

**STATE OF NORTH CAROLINA  
COUNTY OF LINCOLN**

TO: The Tax Administrator of Lincoln County

Pursuant to North Carolina General Statute #105-321(b), you are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the Office of the Tax Administrator and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Lincoln, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 3<sup>rd</sup> day of August, 2009.

\_\_\_\_\_  
Alex E. Patton, Chairman  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Amy S. Atkins, Clerk  
Board of County Commissioners

**UPON MOTION** by Commissioner Arena, the Board voted unanimously to approve the Order Directing the Tax Collector to Collect the Taxes Charged in the Tax Records and Receipts

**Motion to Authorize the Chairman to Execute the First Amendment to Lease Agreement for the Bank of America Building:** **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the motion to authorize the chairman to execute the first amendment to the lease agreement for the Bank of America building.

**Change Order Three: Lincoln County Industrial Park Wastewater Improvement – Burns Whittaker:** Burns Whittaker presented Change Order Three saying that on



October 6, 2008 Public Works requested a change order for the Industrial Park Sewer Line Project in the amount of \$2040.00. This extra cost was due to some modifications to the grinder coming into the station and to remobilization costs for the construction company to switch the sewage from Maiden's pump station to our pump station. At that meeting, the Board of Commissioners asked Public Works to contact the City of Lincolnton and see if they would share in these costs since the remobilization was due to some hold ups on their end. The Lincolnton City Council voted to disburse \$1000.00 to the county. The check was received in December, 2008. Mr. Whittaker requested that the Board approve the Change Order.

**UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve Change Order Three: Lincoln County Industrial Park Wastewater Improvement.

**Motion to Approve Ordinance #2009-5: An Ordinance Adopting the County of Lincoln, North Carolina Code of Ordinances:** Mr. Wood stated that the Code of Ordinances has now been completed, has been reviewed and is ready for adoption. Hard copies will be available to the Board, will be placed in the three library branches and will be on county website.

**UPON MOTION** by Commissioner Arena, the Board voted unanimously to approve Ordinance #2009-5: An Ordinance Adopting the County of Lincoln, North Carolina Code of Ordinances.

**ORDINANCE 2009-05: AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR LINCOLN COUNTY, REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF LINCOLN COUNTY DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES**

WHEREAS, the present general and permanent ordinances of Lincoln County were adopted at various times over a number of years and are arranged and classified in a variety of ways and formats; and

WHEREAS, enacting a County Code for Lincoln County would provide a means of standardizing the formats of the various ordinances embraced within it and would be conducive to the preservation of the public health, peace, safety, and general welfare of the citizens of Lincoln County and to the proper conduct of its affairs; and

WHEREAS, Section 153A-49 of the North Carolina General Statutes empower and authorize the Board of Commissioners to revise, amend, restate, codify, and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Board has previously authorized a general compilation, revision, and codification of the ordinances of Lincoln County of a general and permanent nature and the publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the County and for the continued preservation of the public peace, health, safety, and general welfare of the County that this ordinance take effect at an early date;

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

Section 1. The general ordinances of Lincoln County as revised, amended, restated, codified, and compiled in book form are hereby adopted and shall constitute the “County of Lincoln, North Carolina, Code of Ordinances.”

Section 2. Such Code of Ordinances as hereby adopted in Section 1 shall consist of the following Titles:

TITLE I: GENERAL PROVISIONS

- 10. Rules of Construction: General Penalty

TITLE III: ADMINISTRATION

- 30. County Policies
- 31. County Organizations
- 32. Emergency Management

TITLE V: PUBLIC WORKS

- 50. Water
- 51. Sewer Use
- 52. Solid Waste

TITLE VII: TRAFFIC CODE

- 70. Parking Regulations

TITLE IX: GENERAL REGULATIONS

- 90. False Alarms
- 91. Health and Safety; Nuisances
- 92. Animals
- 93. Addressing and Road Naming
- 94. Hazardous Wastes
- 95. Fire Prevention and Protection

TITLE XI: BUSINESS REGULATIONS

- 110. Amusements
- 111. Peddlers and Solicitors
- 112. Emergency Medical Services
- 113. Pawnbrokers
- 114. Sexually-Oriented Businesses
- 115. Alcoholic Beverages

TITLE XIII: GENERAL OFFENSES

- 130. General Offenses

TITLE XV: LAND USAGE

- 150. General Provisions
- 151. Flood Damage Prevention
- 152. Soil Erosion and Sedimentation Control
- 153. Historic Properties

- 154. Watershed Protection
- 155. Subdivision Regulations
- 156. Zoning Code

Section 3. All prior ordinances pertaining to the subjects treated in this Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes; appropriating money; annexing or detaching territory; establishing franchises or granting special rights to certain persons; authorizing public improvements; authorizing the issuance of bonds or borrowing of money; authorizing the purchase, sale, or lease of real or personal property; granting or accepting easements, plats, or dedications of land to public use; vacating or setting the boundaries of streets, roads, or other public places; nor shall such repeal affect any other ordinance of a temporary, limited, transitory, or special nature or pertaining to subjects not contained in or covered by the Code.

Section 4. The Code of Ordinances shall be deemed published as of the date of its adoption and approval by the Board of Commissioners, and the Clerk to the Board is hereby authorized and ordered to file a copy of such Code of Ordinances in her office.

Section 5. Such Code shall be in full force and effect as provided in Section 6 and shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties, and regulations therein contained and of the date of passage.

Section 6. This Ordinance shall take effect on \_\_\_\_\_, 2009.

ADOPTED this 3<sup>rd</sup> day of August, 2009.

LINCOLN COUNTY  
BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Alex E. Patton  
Chairman

ATTEST:

\_\_\_\_\_  
Amy S. Atkins  
Clerk to the Board

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

\_\_\_\_\_  
Amy S. Atkins, Clerk  
Board of Commissioners

\_\_\_\_\_  
Alex Patton, Chairman  
Board of Commissioners