

**MINUTES  
LINCOLN COUNTY BOARD OF COMMISSIONERS  
MONDAY, AUGUST 16, 2010**

The Lincoln County Board of County Commissioners met on August 16, 2010 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  
George Arena  
James A. Klein  
Carrol D. Mitchem

Others Present:

George A. Wood, County Manager  
Martha W. Lide, Assistant County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Kelly Atkins, Planning & Inspections Director  
Randy Hawkins, Zoning Administrator  
Ron Rombs, EMS Director  
Burns Whittaker, Public Works Director  
Leon Harmon, Finance Director

**Call to Order:** Chairman Patton called the August 16, 2010 meeting of the Lincoln County Board of Commissioners to order.

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

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

**AGENDA**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

**AUGUST 16, 2010**

6:30 PM	Call to Order
	Invocation - Rev. J.V. Allen, Boger City Wesleyan Church
	Pledge of Allegiance

1. 6:32 PM Adoption of Agenda
2. 6:33 PM Consent Agenda
  - Approval of Minutes
  - August 2, 2010
  - Tax Requests for Refunds - More than \$100
  - July 5 – 18, 2010
  - Ordinance #2010-11: An Ordinance Amending the FY 2010 Budget for the County of Lincoln, North Carolina
  - Sponsored Group Status
  - South Fork Baptist Association
3. 6:35 PM Public Comments
4. 6:50 PM Planning Board Recommendations – Randy Hawkins
  - CUP #297 John Wayne Foster Jr., applicant
  - ZMA #579 Lincoln Economic Development Association, applicant
  - UDO Proposed Amendments #2010-1 Lincoln County Planning and Inspections Department, applicant
  - Verdict Ridge Phase 5 Revision
5. 7:15 PM Secondary Roads Paving Program – Jackie McSwain
6. 7:25PM Resolution #2010-42: Resolution in Support of the Sustainable Communities Regional Planning Grant
7. 7:35 PM Public Hearing - Rural Operating Assistance Program Application – Ron Rombs
- 7a. Private Road Name Public Hearings - Netta Anderson
  - Ervin Lane
  - Fire Fly Lane
  - Horace Lane
8. 7:45 PM Recommendation on Water and Sewer Rates and Approval of Resolution #2010-41 – Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina - Burns Whittaker
9. 7:55 PM Proposed Architectural Contract, Bank of America Building Renovations - Burns Whittaker
10. 8:05 PM Lincoln County Local Emergency Management Planning Committee and Resolution #2010-44: Resolution Establishing the Lincoln County Local Emergency Planning Committee and Approving Their Bylaws - Martha Lide
11. 8:15 PM Resolution #2010-45: Resolution to Amend Lincoln County Personnel Policy with Respect to the Conditions of Employment - Martha Lide
12. 8:25 PM Resolution #2010-46: A Resolution in Support of North Carolina's Current Public Alcoholic Beverage Control System
13. 8:30 PM Resolution #2010-47: Request to House Speaker Joe Hackney to Reverse the Ban on Sectarian Prayers
14. 8:35 PM Motion to Adopt on Second Reading - Ordinance #2010-10: An Ordinance Approving an Agreement Granting a 90-day Extension of the Current Nonexclusive Construction and Demolition and Debris Landfill Franchise to Lake Norman Landfill, LLC
15. 8:40 PM Capital Project Report - Burns Whittaker

16. 8:45 PM Finance Officer's Report - Leon Harmon
17. 8:50 PM County Manager's Report - George Wood
18. 8:55 PM County Commissioners' Report
19. 9:00 PM County Attorney's Report
20. 9:05 PM Vacancies/Appointments
21. 9:10 PM Calendar
22. 9:15 PM Other Business

Adjourn

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

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

- Approval of Minutes
  - August 2, 2010
  - Tax Requests for Refunds - More than \$100
    - July 5 – 18, 2010
  - Ordinance #2010-11: An Ordinance Amending the FY 2010 Budget for the County of Lincoln, North Carolina
  - Sponsored Group Status
    - South Fork Baptist Association

**LINCOLN COUNTY TAX DEPARTMENT  
ANNUALS**

**REQUEST FOR REFUNDS**

PERIOD COVERED (JULY 5, 2010-JULY 18, 2010)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00  
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT	REASON
Miller, Pauline	2010	ELFD	20663	333.48	OAE Exemption Applied
			<b>TOTAL</b>	<b>\$ 333.48</b>	

**ORDINANCE #2010-11: AN ORDINANCE AMENDING THE FY 2011 BUDGET  
FOR THE COUNTY OF LINCOLN, NORTH CAROLINA**

THAT WHEREAS, the Lincoln County Board of Commissioners adopted the FY 2011 Budget by approving Ordinance #2010-05 on June 21, 2010; and

WHEREAS, the Finance Director and County Manager are recommending further amendments as shown on the attachments herein; and

WHEREAS, the Lincoln County Board of Commissioners wishes to approve these proposed budget amendments;

NOW THEREFORE BE IT ORDAINED AND ESTABLISHED by the Board of Commissioners of Lincoln County, North Carolina, that the FY 2011 Budget previously adopted is hereby amended as follows:

Section 1. That the budget adjustments attached hereto, and incorporated herein by reference as Exhibit A to Ordinance #2010-11, are hereby approved and adopted as amendments to the FY 2011 Budget.

Section 2. That this amendment to the budget shall become effective immediately upon its adoption by the Board of Commissioners.

Passed and adopted this 16th day of August, 2010.

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

ATTEST:

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

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

Being no speakers, Chairman Patton declared the public comments section closed.

**Planning Board Recommendations – Randy Hawkins:**

**Conditional Use Permit No. 297 – John Wayne Foster Jr., applicant:** Randy Hawkins presented the following information:

(Parcel ID# 56941 and 56942) A request for a conditional use permit to allow vehicle sales in the B-G (General Business) district. The 1.4-acre site is located at 7149 Campground Road, on the north side of Campground Road just east of Pine Ridge Drive, in Catawba Springs Township. The Planning Board voted 7-0 to recommend approval.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve Conditional Use Permit No. 297 – John Wayne Foster, Jr., applicant, with the Findings of Fact presented by the Planning Board.

**Zoning Map Amendment No. 579 – Lincoln Economic Development Association,**

**applicant:** (Parcel ID# 56205) A request to rezone a 68-acre parcel from R-T (Transitional Residential) to I-G (General Industry). 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. The Planning Board voted 7-0 to recommend approval.

**A MOTION** by Commissioner Arena to approve Zoning Map Amendment No. 579 – Lincoln Economic Development Association, with the Statement of Consistency and Reasonableness.

Commissioner Carlton stated that he would like to discuss what has been done and about what is getting ready to be done. He said when he came on the Board, everyone was excited about the hospital, YMCA and office park for the area in question. He said he would like to address the business park, which supposed to bring white collar jobs out of Charlotte and some of the Research Park type developments with an upper scale business park in that area. He said now we have a brand new hospital and a brand new YMCA adjacent to an industrial park. He stated that he has traveled every state in this Country and has never seen people plan a new hospital and YMCA right next to an industrial park. He asked what happened to that vision and who changed it.

Commissioner Carlton asked for a Schematic Design of the new industrial park. Barry Matherly stated that he has this.

Commissioner Carlton asked how long Mr. Matherly has been working on putting Airlie Park together. Mr. Matherly stated that they had been working on it for about three years.

Commissioner Carlton asked what will happen with all the expenses that go into producing this park.

Barry Matherly stated that the roadwork, water and sewer is all under the infrastructure project. The agreement is that the county wants to do that work directly instead of farming it out as it was in the past.

Commissioner Carlton stated that we are asking county taxpayers to pick up the tab and invest up to \$3 million with no guarantee of any timely return on this money for a private owner.

Commissioner Carlton stated that this country is in the hardest economic times ever and the State is predicting a \$3.9 billion shortfall next year. He said next year is going to be even tougher than this year and we are going out on a limb with a blank check for up to \$3 million.

Commissioner Arena stated that LEDA is running at a budget below last year's, they have cut their expenses. He said the decision was fast, but the park has been planned for four years with a developer who backed out. There are grant monies involved. He said this has been in planning, but the rush is to get infrastructure in their for the first tenant.

There was a discussion on how the property will be developed and how the fund will be repaid to the county.

**Vote: 4 – 1    AYES: Patton, Mitchem, Klein, Arena**  
**NOES: Carlton**

**UDO Proposed Amendments No. 2010-1 – Lincoln County Planning & Inspections Department, applicant:** UDO Proposed Amendments #2010-1 Lincoln County Planning and Inspections Department, applicant A proposal to amend the Lincoln County Unified Development Ordinance as follows:

- 1) Amend Section 2.1.3.D.2 to state that a conditional zoning district may specify that only one or some of the uses allowed (either on a permitted or a conditional basis) in the corresponding general zoning district are allowed in the conditional zoning district, and delete Section 2.1.3.D.3 to eliminate references to a conditional use permit and conditional use district.
- 2) Amend Section 2.2.1 to list “public safety facility” as a permitted use in all districts and amend Section 12.3.2 to include a definition for public safety facility.
- 3) Amend Section 3.4.10.B.1 to stipulate that no parking space shall be located more than 50 feet from a planting island located in the same row of spaces.
- 4) Amend Section 3.6.3.B.1 to state that the number of required off-road parking spaces designed for use by handicapped persons as prescribed by the North Carolina State Building Code shall be computed separately from the off-road parking requirements as otherwise contained in this section, and amend Section 3.6.3.C.1 to delete a dimensional requirement for handicapped spaces.
- 5) Amend Section 3.6.3.B.1 to change the minimum parking ratio for a place of worship, funeral home and crematorium to 1 space per 3 seats in the largest assembly room.
- 6) Amend Sections 3.10.3.B.2 and 3.10.3.C.2 to delete a stipulation that Limited Outdoor Storage and General Outdoor Storage may only be permitted following Board of Commissioners review of a major site plan.
- 7) Amend Section 12.3.2 to include a definition for “junked motor vehicle.”

The Planning Board voted 7-0 to recommend approval.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve UDO Proposed Amendments No. 2010-1.

**Verdict Ridge Phase 5 Revision:** Planning Board voted 7-0 to recommend approval.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve Verdict Ridge Phase 5 Revision.

Mr. Wood thanked the Knox's for working so well with the County with the Forney Creek cutbacks.

**Secondary Roads Paving Program – Jackie McSwain:** Jackie McSwain presented the 2010-11 Secondary Roads Construction Program for Paving priority. She said these are anticipated allocations and there is still a backlog of 2009-10 they are working on.

She asked the Board for approval of a Resolution.

#### **Resolution 2010-49**

**WHEREAS**, representatives from the North Carolina Department of Transportation appeared before the Lincoln County Board of Commissioners on Monday, August 16, 2010 and presented the Secondary Roads Improvement Program for 2010-2011 for Lincoln County.

**NOW, THEREFORE, BE IT RESOLVED BY THE LINCOLN COUNTY BOARD OF COMMISSIONERS** that the Board has reviewed said program and concurs with the Secondary Roads Improvement Program for the fiscal year 2010-2011 as presented by the representatives of the North Carolina Board of Transportation as follows:

#### **North Carolina Department of Transportation Lincoln County Secondary Roads Construction Program 2010– 2011 Paving Priority.**

FY 2010 – 2011 **Anticipated** Allocations:

Highway Fund (G.S. 136-44.5b&c) \$ 525,700.00

Trust Fund (G.S. 136-182) \$ 631,400.00

**Grand Total..... \$ 1,157,100.00**

#### **I. Paving Unpaved Roads**

##### **A. Rural Paving Priority**

##### **Rural Length**

<b>Priority #</b>	<b>SR#</b>	<b>Local Name</b>	<b>(Miles)</b>	<b>Cost Estimate</b>
1	2008	Llama Lane	0.35	\$139,700.00
2	1345	McCorkle Rd.	0.50	\$215,500.00
3	1572	Fish Rd.	0.30	\$134,500.00

**Rural Totals ..... 1.15    \$489,700.00**

\* Rural Paving Alternates:

4 (alternate) 1191 Ernest Houser Rd    0.50            \$225,400.00

In the event that any roads in priority have to be placed on the “Hold List” due to unavailability of right of way or unfavorable environmental review, or if additional funding becomes available, those funds will be applied to the roads listed in the paving alternate list by priority.

B. Subdivision Paving Priority

**Subdivision Length**

Priority #	SR#	Local Name	(Miles)	Cost Estimate
------------	-----	------------	---------	---------------

None

**Subdivision Total ..... \$0.00**

**II. General Secondary Road Improvements (Funded by G.S. 136-44.5b)**

A. Paved Road Improvements

**Length**

SR#	Local Name Description (Miles)	Cost Estimate
SR 1002	Shoal Road Widen 2' and resurface from 6.0 NC 182 to Gaston County	<b>\$498,500.00</b>

B. Various Spot Stabilization, Secondary Maintenance

Length	SR#	Local Name Description (Miles)	Cost Estimate
--------	-----	--------------------------------	---------------

Various various \$ **50,000.00**

**III. Trust fund safety improvements (Funded by G.S. 136-182)**

Length	SR#	Local Name Description (Miles)	Cost Estimate
--------	-----	--------------------------------	---------------

None \$ **0.00**

**IV. Funds reserved for surveying, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.....**

**\$115,000.00**

Total from page 1..... \$ 489,700.00

Total from page 2..... \$ 663,500.00

**Grand Total..... \$1,153,200.00**

**\*\*Program subject to the availability of funding, right of way, and environmental review. Roads may or may not be improved in the exact order listed hereon due to these and other factors.**

**This the 7th day of September, 2010.**



\_\_\_\_\_  
**Alex Patton, Chairperson**  
**Lincoln Co. Board of Commissioners**

**ATTEST,** \_\_\_\_\_  
**Amy Atkins, Clerk to the Board**

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the Secondary Roads Paving Program.

Private	Road	Name	Public	Hearings
---------	------	------	--------	----------

Ervin Lane  
Fire Fly Lane  
Horace Lane

Motion ua.

**Resolution #2010-42: Resolution in Support of the Sustainable Communities Regional Planning Grant:** Commissioner Arena stated that this is a resolution that follows the Connect program. This is an application for a grant that will help Centralina COG get funding for air quality, water quality, bringing the region together on a transportation initiative and other things. The match will be mostly by COG staff and there may be some county staff time involved.

Commissioner Carlton asked if this locks Lincoln County into any funding. Commissioner Arena said it would not.

**RESOLUTION #2010-42:  
RESOLUTION IN SUPPORT OF THE  
SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT**

**WHEREAS**, the Sustainable Communities Regional Planning Grant Program (Program) is a new program of the federal partnership of the Department of Housing & Urban Development, U.S. Environmental Protection Agency, and the U.S. Department of Transportation, and is designed to promote greater regional sustainability, livability and efficiencies by breaking down barriers to governmental and private/non-profit collaboration among regional jurisdictions, most notably by linking housing, transportation, economic development, and the environment; and

**WHEREAS**, the Centralina Council of Governments (CCOG) has taken the lead in facilitating a joint effort for the Charlotte metropolitan region that would lead to an application for federal funds under the Program; and

**WHEREAS**, the Program's foundation is based on six Livability Principles intended to promote sustainability and are closely linked to the CONNECT Regional Vision Core

Values and Action Agenda adopted by Lincoln County on August 2, 2010 and adopted by over 50 jurisdictions in the region; and

**WHEREAS**, both the Livability Principles and the CONNECT Action Agenda call for the provision of sustainable and well-managed growth, more transportation choices, enhanced social equity through housing and other means, and more economic opportunity for all residents of the region; and

**WHEREAS**, the Sustainable Communities Regional Planning Grant will provide tools to regional partners, including Lincoln County, to enable broader and deeper engagement on these principles and values, giving them an implementable foundation and a geographic base; and

**WHEREAS**, work associated with the grant will provide a strong platform for the preparation of future Long Range Transportation Plans (LRTP), strategic economic development initiatives, and revitalization of areas experiencing disinvestment; and will directly benefit Lincoln County in its inter-jurisdictional planning and coordination efforts; and

**WHEREAS**, Lincoln County's participation in the consortium for the Sustainable Communities Regional Planning Grant will help to afford the entire Metropolitan Statistical Area (MSA) opportunities to better align their own housing, land use, transportation, water infrastructure, economic development, and environmental plans; and

**WHEREAS**, Lincoln County's participation in, and successful completion of, a Sustainable Communities Regional Planning Grant application will afford Lincoln County benefits in applying for additional funds to support project implementation through being conferred with "Preferred Sustainability Status" by the federal partnership; and

**NOW, THEREFORE, BE IT RESOLVED**, that Lincoln County supports the submission to HUD of a Sustainable Communities Regional Planning Grant application, with CCOG as lead applicant, and agrees as a member of the Regional Sustainable Communities Planning Consortium (consortium agreement to be negotiated within 120 days of grant award) to participate in planning activities relevant to the geography of Lincoln County and its planning jurisdiction; and

**BE IT FURTHER RESOLVED**, that Lincoln County agrees to allow staff participation in planning efforts of the Sustainable Communities Regional Planning Grant, with such participation being proportional with other regional governmental agency partners, and counted as "in kind" contribution toward the HUD-required 20 percent leveraged resources.

---

Alex E. Patton, Chairman

Lincoln County Board of Commissioners

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve Resolution #2010-42: Resolution in Support of the Sustainable Communities Regional Planning Grant.

**Public Hearing – Rural Operating Assistance Program Application – Ron Rombs:**

Ron Rombs presented the Rural Operating Assistance Program Application.

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

The fiscal year 2010-2011 application is attached with Lincoln County allocations and sub-allocations by agency.

I request the Board of Commissioners approve the attached ROAP application in the sum of \$128,271.

NCDOT has allocated Lincoln County a total of \$128,271 for EDTAP, Work First and RGP. There is also and additional allocation of \$73,297 in supplemental funds that are intended for new services or expansion services such as the Veterans Services transportation program.

Allocated Funds			
EDTAP	ETAP	RGP	
\$56,533	\$11,139	\$56,205	
Sub-Allocated Funds			
EDTAP	ETAP	RGP	
\$32,586	\$13,971	\$49,797	
TOTALS			
\$89,119	\$25,110	\$106,002	<b>\$220,231</b>

There are no county matching funds for the Elderly and Disabled Transportation Assistance Program (EDTAP) or the Employment Transportation Assistance Program (Work First). There is however, a Lincoln County match of 10% (\$10,600) for the Rural General Public Transportation Program (RGP) that has been figured into the TLC budget for FY 2010-2011.

Chairman Patton opened the public hearing concerning the Rural Operating Assistance Program. Being no additional speakers, Chairman Patton declared the public hearing closed.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the ROAP application.

**Private Road Name Public Hearings – Netta Anderson:** Netta Anderson presented the following information concerning the private road names.

Ervin Lane: This road is located off of NC 73 Hwy, at the property owner's request to name the private road that access NC 73 Hwy via this private road. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the public hearing concerning the private road name Ervin Lane. Being no speakers, Chairman Patton declared the public hearing closed.

Fire Fly Lane: This road is located off of NC 73 Hwy and requires naming due to the fact that there are now three (3) structures that access NC 73 Hwy via this private road. The name proposed is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the public hearing concerning the private road name Fire Fly Lane. Being no speakers, Chairman Patton declared the public hearing closed.

Horace Lane: This road is located off of Forney Hill Road and requires naming due to the fact that there are now three (3) structures that access Forney Hill Road via this private road. The name proposed was agreed to by all residents and is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the public hearing concerning the private road name Horace Lane. Being no speakers, Chairman Patton declared the public hearing closed.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adopt the private road names Ervin Lane, Fire Fly Lane, and Horace Lane.

**Resolution #2010-41 – Recommendation on Water and Sewer Rates and Approval of Resolution #2010-41 – Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina:** Burns Whittaker and George Wood presented the following information.

As you know, Raftelis Financial Consultants, Inc. has reviewed with you the findings of their water and sewer study. After that, you directed me to develop the decision points that were needed to implement the study. Burns and I have done that, and have split them into two categories: 1) those that need to be made as soon as possible; and 2) those that are long-term, dealing with policy issues affecting future years.

Immediately behind this memorandum is one from Burns that discusses the five decision points that we are asking you to take action on immediately (category 1). I will not reiterate them here. Following Burns' memorandum is a more detailed explanation of each of the five decision points. Following that is a Resolution that addresses all five of these decision points. We are recommending that you adopt this Resolution immediately.

Once the Resolution is adopted, it leaves three decision points for further discussion (category 2) before a decision has to be made on the next fiscal year budget (FY 2012). I am recommending that you either hold a work session later this fall to discuss these issues, or discuss them in detail at your Annual Planning Retreat in December, 2010. They have long-term policy implications that need to be thoroughly discussed and resolved.

The three remaining decision points are:

- 1) The recommendation from Raftelis to change over a 3-year period the Tier 2 Water Rates beginning in FY 2012 to reduce from the current 15,000 to 10,000 gallons of water usage per month before the Tier 2 rates take effect. This is to encourage more conservation in water usage. The Tier 2 rates are higher than the Tier 1 rates.
- 2) The recommendation from Raftelis to equalize over a 3-year period beginning in FY 2012 the residential sewer rates and the commercial sewer rates. Currently, residential customers pay \$4.72 per 1,000 gallons, while commercial customers pay \$5.72. There is no cost difference to the County to treat commercial sewage versus residential sewage. Therefore this rate differential needs to be changed.
- 3) The recommendation from Raftelis to raise sewer rates only, not water rates, in FY 2015 through FY 2020 by 3% per year to offset inflation. This has the added effect of reducing the current reliance on the water revenues to subsidize the sewer revenues. This proposal

cuts that subsidy in half. The Board may want to consider alternative proposals that cut this subsidy even more aggressively. One of the scenarios that I will be sending you this week does that. It would change those 3% inflationary increases to 8%, with water rates being reduced by the dollar amount that the additional 5% sewer rate increase generates. This would take the sewer rates up, while taking the water rates down a corresponding amount, so there is no additional revenue (beyond the 3% inflationary increase). This would virtually end the subsidy by the end of the 10<sup>th</sup> year. As part of that scenario, we have shown you the impact on the water and sewer customers of such raises.

Again, we do not need to delay the first five decision points in order to discuss these remaining three decision points. Therefore, we recommend that you adopt the attached Resolution dealing with them, and set the time and date to discuss the remaining three decision points either in a future work session, or at your December, 2010 Annual Planning Retreat. Since the FY 2012 Budget may be impacted by any decision you make, and the Board will have at least one new member after the November election, you might want to consider waiting until the new member(s) are sworn in at the first meeting in December.

One additional item needs to be mentioned. We currently do not have in our Code of Ordinances the various rules and regulations dealing with the water and sewer system. It is good practice to adopt those by ordinance, so that the citizens have a clear understanding of them, and access to them over the internet. Burns and I are working on an ordinance that will do that, and should have it to you within the next two months. When it is adopted and available on the internet, and the Schedule of Fees and Charges in the proposed Resolution is adopted, we will post it on the internet as well. Then citizens will have all of the information dealing with rules and regulation, and the rates, readily available to them online.

The Water and Sewer Rate Study has been completed and the results presented to the Board during a Work Session held on July 12. We request that you make the following decisions so that we can proceed with the writing of the ordinance which will finalize the implementation of the rate study.

Decision 1. Revise the Water Capacity Development Fees as follows:

Class of service	Current CDF	Proposed CDF
Residential	\$4000	\$2800
All Other Classes	\$10,000 to \$620,000 based on meter size.	Calculated by formula with a minimum rate of \$2800

Decision 2. Revise the Sewer Capacity Development Fee as follows (effective July 1, 2010):

Class of Service	Current CDF	Proposed CDF
Residential	\$6000	\$3000
All Other Classes	\$9000 to \$180,000 based on meter size.	Calculated by formula with a minimum rate of \$3000

Decision 3. No change in water rates is proposed for 2011. Establish a new rate structure which includes a new rate for "irrigation" which will be billed at the same rate as the primary meter classification.

Decision 4. No change in the sewer rates is proposed with the exception of the "Sewer Only" rate. Increase the "Sewer Only" rate from a flat monthly fee of \$30.96 to \$31.89 (effective with the billing cycle following adoption of the ordinance).

Decision 5. Revise the Tap and Meter Fees to reflect actual costs as follows:

Meter Size	Current Tap fee	Proposed Tap fee	Current Meter fee	Proposed Meter fee	Current Total	Proposed Total
¾"	\$925	\$960	\$175	\$200	\$1100	\$1160
1"	\$1100	\$1190	\$250	\$260	\$1350	\$1450
2"	\$3350	\$2840	\$1750	\$1750	\$5100	\$4590
¾" Irrigation (Tapped to existing service line)	\$375	\$480	\$175	\$200	\$550	\$680
¾" Irrigation (Tapped to main)	\$925	960	\$175	\$200	\$1100	\$1160
1" Irrigation (Tapped to main)	\$1100	\$1190	\$250	\$260	\$1350	\$1450

## **RATE STUDY**

### **DECISION POINTS**

#### **Point 1. Water Capacity Development Fees**

**Current Situation:** The CDF is set by meter size in as shown in Attachment A. This fee was established in August 2007 without benefit of a formal study.

**Recommendation:** The consultant recommends and Staff concurs that a new structure is needed. Based on a calculated rate, we recommend a new water CDF be established for all residential customers at \$2800. Rates for all other classes of customers (except residential irrigation) will be based on actual usage according to the following formula:

**ADU x 1.2 x calculated GPD rate (currently \$9.71)**

ADU= Average Daily Usage. This is actual total yearly metered water usage / 365.

1.2 = Unaccounted for water (this is to cover water used by fire departments, flushing and maintenance costs, water loss and other unbilled water use which must be absorbed by all customers).

GPD = a calculated rate based on the current value of all capital assets divided by the total capacity which can be produced by the system.

The minimum Capacity Development fee will be \$2800 for all classes (except irrigation).

Initially, the customer will pay a CDF based on the estimated use of water. In the event that a reasonable estimate cannot be provided, the Director of Public Works will provide an estimate based on similar customers or industry standards. At the end of 1 year of service, the actual rate will be calculated and the customer billed or refunded the difference.

Irrigation meters are now required by the State for all in-ground irrigation systems. Based on an in house study of current residential irrigation meters, we have determined that the average irrigation usage based on a 12 month period of time is 6,728 gallons per month, which is 34% more than the overall average meter usage (5020 gallons per month). Based on this we recommend an Residential Irrigation Capacity Development Fee be set at \$950 ( $\$2800 \times .34 = \$952$ ).

**This change should be implemented immediately.**



## **Point 2: Sewer Capacity Development Fees**

**Current Situation:** The CDF is set by the water meter size as shown in Attachment B. This fee was established in August 2007 without benefit of a formal study.

**Recommendation:** The consultant recommends and Staff concurs that a new structure is needed. Based on a calculated rate, we recommend a new sewer CDF be established for all residential customers at \$3000. Rates for all other classes of customers will be based on actual usage according to the following formula:

**ADU x 1.4 x calculated GPD rate (currently \$13.20)**

ADU= Average Daily Usage. This is actual total yearly metered water usage / 365.

1.4 = Infiltration/Inflow factor. This covers the additional sewage that flows into our system from rainwater, groundwater, roof drains, etc. This is based on a rate of flow that we are currently estimating during rain events.

GPD = a calculated rate based on the current value of all capital assets divided by the total capacity which can be produced by the system.

The minimum Capacity Development fee will be \$3000 for all classes (except irrigation).

Initially, the customer will pay a CDF based on his estimated use of water. In the event that an estimate cannot be provided, the Director of Public Works will provide an estimate based on similar customers or industry standards. At the end of 1 year of service, the actual rate will be calculated and the customer billed or refunded the difference.

**This change should be implemented immediately.**

## **Point 3: Water Rates**

**Current Situation:** Water rates are currently as shown on Attachment C.

**Recommendation:** See Attachment C

**Residential Rate:** The Consultant recommends and the Staff agrees that rates should be revised beginning in FY 2012 as follows. Water rates in effect will not change from current rates other than an adjustment in the level at which Tier 2 rates kick in. Currently, customers pay an increased rate for all water used over 15,000 gallons per month. The recommended rate structure gradually lowers this Tier to 10,000 gallons per month.

**Commercial Rate:** No change recommended

Industrial Rate: No change recommended

Agricultural Interruptible Rate: No change recommended

Bulk Sales Rate: No change recommended

Irrigation Rate: This is a new rate structure. Currently the rate listing is silent about irrigation rates, creating an occasional confusion. Rates for Irrigation systems shall be charged at the same rate as the primary class (i.e. Residential, Commercial, or Industrial).

#### **Point 4: Sewer Rates**

Current Situation: Sewer rates are currently as shown on Attachment C.

Recommendation: See Proposed Resolution

Residential Rate: No change to the current rate structure is recommended except for the "SEWER ONLY" rate (see below). The Consultant recommends and the Staff agrees that residential rates should be revised as follows beginning in FY 2012. Sewer rates should not be tiered as the purpose of the tiers is to encourage conservation. The volume of sewer is tied to the amount of water used and therefore differing rates for sewer based on volume is not appropriate. Our proposal is to begin in FY 2012 to gradually raise the Tier 2 sewer rate from \$4.72 to \$5.72 while at the same time bringing down the Tier 2 level from 15,000 gallons to 10,000 gallons the same as we propose for Water.

Commercial Rate: No change recommended

Industrial Rate: No change recommended

Sewer Only Rate: The current rate for sewer only customers is a flat monthly fee. This rate was developed based on an average usage of 5,020 gallons per month, which is a reasonable amount. However, the flat fee was based on an older rate (\$4.35) and never has been updated to the current rate of \$4.72. To make this rate current, we propose that the sewer only fee be based on 5020 gallons times the Tier 2 incremental rate for sewer (currently \$4.72). Based on this, we recommend the Sewer Only Rate for residential customers be a flat monthly fee of \$31.89. **This change should be implemented immediately.**

Beginning in 2015, we project that a 3% annual increase in sewer rates for all classes will be necessary.

#### **Point 5: Tap and Meter Fees**

Current situation: Water taps are made by the County personnel. Sewer taps are made by a contractor with set rates for each type of tap. Current Tap and Meter fees are shown on Attachments A & B.

Recommendation: See Proposed Resolution

Water Tap fees should be adjusted to more accurately reflect the average cost of installation. Therefore we recommend the following adjustments:

Water Tap fees	Current	Proposed	Diff
¾"	\$925	\$960	+\$35
1"	\$1100	\$1190	+\$90
2"	\$3350	\$2840	-\$510
¾" Irrigation. Tapped to service line	\$375	\$480	+\$105
¾" Irrigation Tapped to Main)	\$925	\$960	+\$35
1" Irrigation	\$1100	\$1190	+90

Meter Fees (charged in addition to the above Tap fee. Where developer or homeowner has the tap made by contract, only the meter fee is charged).

Meter Fee	Current	Proposed	Diff
¾"	\$175	\$200	+\$25
1"	\$250	\$260	+\$10
2"	\$1750	\$1750	0

If a double meter box with one tap is requested the fee will be one tap fee as above plus 2 meter fees.

**We recommend that these changes be made effective immediately.**

**LINCOLN COUNTY WATER DEPARTMENT  
WATER CONNECTION FEES  
EFFECTIVE AUGUST 31, 2007**

**TABLE 1 - CAPACITY DEVELOPMENT FEES FOR ALL WATER CONNECTIONS**

<u>WATER METER SIZE</u>	<u>RESIDENTIAL AND COMMERCIAL FEE</u>	<u>INDUSTRIAL FEE</u>
¾-inch	\$ 4,000.00	\$ 4,000.00
1-inch	\$ 10,000.00	\$ 5,000.00
2-inch	\$ 32,000.00	\$ 8,000.00
3-inch	\$ 64,000.00	\$ 16,000.00
4-inch	\$100,000.00	\$ 25,000.00
6-inch	\$200,000.00	\$ 50,000.00
8-inch	\$320,000.00	\$ 64,000.00
10-inch	\$460,000.00	\$ 69,000.00
12-inch	\$620,000.00	\$ 93,000.00

**TABLE 2 - TAP FEES AND METER FEES**

¾-inch Irrigation Tap and Meter (See Note 5)	\$ 550.00
¾-inch Water Tap and Meter	\$1,100.00
1-inch Water Tap and Meter	\$1,350.00
2-inch Water Tap and Meter	\$5,100.00
¾-inch Meter Only	\$ 175.00
1-inch Meter Only	\$ 250.00
2-inch Meter Only	\$1,750.00

Notes:

1. Capacity Development Fee is based on a gallons-per-minute ratio per meter size as shown in Table 1. Applicants shall also pay any applicable tap or meter fees included in Table 2.
2. Capacity Development Fees will be charged on a per – meter basis.
3. New Non-Profit Organization Capacity Development Fee up to 2" meter - \$4,000.00
4. All "Out of County" fees are double the "In County" fees..
5. Residential installation only. Special conditions apply. Residential Capacity Fee will apply.
6. Capacity Development Fee for a residence existing prior to August 31, 2007 - \$2,000.00
7. Capacity Development Fee for an existing residence may be waived upon documentation by Lincoln County Health Department of a non-repairable contaminated well.
8. ALL FEES ARE SUBJECT TO CHANGE WITHOUT NOTIFICATION

**LINCOLN COUNTY PUBLIC WORKS  
SEWER CONNECTION FEES  
EFFECTIVE AUGUST 31, 2007**

*Attachment B*

**TABLE 1 - CAPACITY DEVELOPMENT FEES  
FOR INDIVIDUAL RESIDENCES OR BUILDINGS**

<u>WATER METER SIZE</u>	<u>FEE</u>
¾-inch	\$ 6,000
1-inch	\$ 9,000
2-inch	\$ 18,000
3-inch	\$ 28,800
4-inch	\$ 57,600
6-inch	\$ 90,000
8-inch	\$180,000

**TABLE 2 - CAPACITY DEVELOPMENT FEES  
FOR MULTIPLE DWELLING UNITS OR BUILDINGS**

<u>NUMBER OF UNITS</u>	<u>FEE</u>
2-3	\$6,000/unit
4-7	\$6,000/unit
8-20	\$6,000/unit
21-43	\$6,000/unit
44 and over	\$6,000/unit

**TABLE 3 - SEWER TAP FEES**

1-1/2-inch Low Pressure Sewer Tap	\$1,100
2-inch Low Pressure Sewer Tap	\$1,650
4-inch Gravity Sewer Tap	\$1,875
6-inch Gravity Sewer Tap	\$3,000

**Notes:**

1. Sewer Capacity Development Fee is based on water meter size for individual residences and buildings as shown in Table 1. For applicants located where water service is not available, fees are based on equivalent water meter size. Applicants shall also pay any applicable tap fees included in Table 3.
2. Existing residential homes and any active residential building permits prior to August 31, 2007 will be charged a Capacity Development Fee of \$3,000 based on a residential ¾" water meter installation and any applicable sewer tap fees included in Table 3.
3. Applicants with multiple dwelling units, multiple unit businesses, or multiple buildings on an individual tract of land may apply for one sewer tap to serve all units. Applicant shall pay capacity development fees shown in Table 2, or fee shown for water meter size shown in Table 1, whichever is greater, in addition to any applicable tap fees included in Table 3. All lines connecting more than one building to a single sewer tap shall be permitted by the North Carolina Department of Environment and Natural Resources.
4. Simplex grinder pump units shall only serve structures with 6 or less water closets, structures with more than 6 water closets will require a duplex pump unit. All pump units shall be approved by Lincoln County Public Works prior to installation.
5. ALL FEES ARE SUBJECT TO CHANGE WITHOUT NOTIFICATION



# COUNTY OF LINCOLN, NORTH CAROLINA

115 WEST MAIN STREET, 2<sup>ND</sup> FLOOR CITIZENS CENTER, LINCOLNTON, NORTH CAROLINA 28092

## DEPARTMENT OF PUBLIC WORKS

PHONE (704) 736-8497

FAX (704) 736-8499

## LINCOLN COUNTY PUBLIC WORKS

### Monthly Water Billing Rates

Effective October 6, 2008

#### In County Rates

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons	\$ 4.72
Each additional 1,000 gallons (over 200,000 gallons, industrial use only)	\$ 4.22
*Each additional 1,000 gallons (over 15,000 gallons)	\$ 5.72
*Each additional 1,000 gallons (over 15,000 gallons – voluntary restrictions)	\$ 7.15
*Each additional 1,000 gallons (over 15,000 gallons – mandatory restrictions)	\$11.44
Each Additional 1,000 Gallons (Commercial only)	\$ 5.72
Interruptible Agricultural Rate per 1,000 gallons	\$ 4.00
Bulk Water Rate/1,000 gallons	\$ 8.00

\*(Residential only)

#### Out of County Rates

Minimum Billing (0-2,500 gallons)	\$40.00
Each additional 1,000 gallons	\$ 4.72
*Each additional 1,000 gallons (over 15,000 gallons)	\$ 5.72
*Each additional 1,000 gallons (over 15,000 gallons – voluntary restrictions)	\$ 7.15
*Each additional 1,000 gallons (over 15,000 gallons – mandatory restrictions)	\$11.44
Each Additional 1,000 gallons (Commercial only)	\$ 5.72

\*(Residential only)

### Monthly Sewer Billing Rates Residential and Non-residential

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons	\$ 4.72
*Each additional 1,000 gallons (over 15,000 gallons)	\$ 5.72
*Each additional 1,000 gallons (over 15,000 gallons – voluntary restrictions)	\$ 7.15
*Each additional 1,000 gallons (over 15,000 gallons – mandatory restrictions)	\$11.44
Each additional 1,000 gallons (Commercial only)	\$ 5.72

\*(Residential only)

RESOLUTION #2010-41: A RESOLUTION ADOPTING A REVISED SCHEDULE OF FEES  
AND CHARGES FOR THE COMBINED WATER AND SEWER SYSTEM OF LINCOLN  
COUNTY, NORTH CAROLINA

THAT WHEREAS, Lincoln County owns and operates a combined water and sewer system, which is funded from the fees and charges for services paid by the customers of said system; and

WHEREAS, the Board of Commissioners had engaged the professional services of Raftelis Financial Consultants, Inc. to conduct a study of the existing rate structure for water and sewer tap fees, capacity development fees, base charges, and volumetric charges; and

WHEREAS, Raftelis Financial Consultants, Inc. has completed said study and reviewed the results with the Board of Commissioners in a recent work session; and

WHEREAS, the consultant recommendations for the current fiscal year are to not raise any of the volumetric charges except for Sewer Only customers, to adjust the water and sewer tap fees slightly to reflect the County's actual cost to install said taps, and to reduce the residential capacity development fees from \$4,000 to \$2,800 for water and from \$6,000 to \$3,000 for sewer; and

WHEREAS, recent legislation requires that all new residential construction must include a separate irrigation meter and water tap if an irrigation system is installed on the property, which requires a decision on the amount of a capacity development fee to charge for such additional meter and usage; and

WHEREAS, the County Manager and Public Works Director have prepared the attached **Schedule of Fees and Charges for Water and Sewer Services**, which includes these adjustments to the rates, and they recommend its adoption; and

WHEREAS, the Board of Commissioners wish to adopt these changes in the water and sewer fees and charges;

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

SECTION 1. That the **Schedule of Fees and Charges for Water and Sewer Services**, attached hereto and incorporated herein as Attachment #1 to this Resolution, is hereby adopted as the approved fees and charges for the combined water and sewer system owned and operated by Lincoln County.

SECTION 2. That these fees and charges shall become effective immediately upon adoption, and shall remain in full force and effect until amended by a subsequent resolution of the Board of Commissioners.

Passed and adopted this 16th day of August, 2010.

BY: \_\_\_\_\_

Alex E. Patton, Chairman

Lincoln County Board of Commissioners

ATTEST:

\_\_\_\_\_

Amy S. Atkins, Clerk to the Board



**Attachment #1:**

**Schedule of Fees and Charges for Water and Sewer Services**

**TABLE 1 - WATER TAP FEES AND METER FEES**

<i>Meter Size</i>	<i>Tap Fee</i>	<i>Meter Fee</i>
¾-inch	\$960	\$200
1-inch	\$1190	\$260
2-inch	\$2840	\$1750
¾ - inch Irrigation tap on Service Line	\$480	\$200
¾ - inch Irrigation tap on Water Main	\$960	\$200
1 – inch Irrigation tap on Water Main	\$1190	\$260

**TABLE 2 - CAPACITY DEVELOPMENT FEES FOR ALL WATER CONNECTIONS**

<u>Class of Service</u>	<u>Capacity Development Fee</u>
Single Family Residential	\$ 2800
All Other	Calculated Rate

The Calculated Rate Formula is as follows:

\$9.71 X average daily use X 1.2 = Capacity Development Fee, or \$2,800, whichever is greater.  
(See Notes below)

Single Family Residential Irrigation	\$950
All Other Irrigation	Calculated Rate on the irrigation meter usage, or \$950, whichever is greater.

Notes:

1. The initial Capacity Development Fee(s) will be based on an estimated amount of usage. This estimate shall be provided by the customer where possible. Where the customer cannot provide a reasonable estimate, the Staff shall provide the estimate based on similar applications or based on industry established standards. **Capacity Development Fees must be fully paid before the Certificate of Occupancy for the property being served will be issued by the Planning and Inspections Department.**

**Attachment #1:**

**Schedule of Fees and Charges for Water and Sewer Services**

**TABLE 1 - WATER TAP FEES AND METER FEES**

<i>Meter Size</i>	<i>Tap Fee</i>	<i>Meter Fee</i>
¾-inch	\$960	\$200
1-inch	\$1190	\$260
2-inch	\$2840	\$1750
¾ - inch Irrigation tap on Service Line	\$480	\$200
¾ - inch Irrigation tap on Water Main	\$960	\$200
1 – inch Irrigation tap on Water Main	\$1190	\$260

**TABLE 2 - CAPACITY DEVELOPMENT FEES FOR ALL WATER CONNECTIONS**

<u>Class of Service</u>	<u>Capacity Development Fee</u>
Single Family Residential	\$ 2800
All Other	Calculated Rate

The Calculated Rate Formula is as follows:

$\$9.71 \times \text{average daily use} \times 1.2 = \text{Capacity Development Fee, or } \$2,800, \text{ whichever is greater.}$   
(See Notes below)

Single Family Residential Irrigation	\$950
All Other Irrigation	Calculated Rate on the irrigation meter usage, or \$950, whichever is greater.

Notes:

1. The initial Capacity Development Fee(s) will be based on an estimated amount of usage. This estimate shall be provided by the customer where possible. Where the customer cannot provide a reasonable estimate, the Staff shall provide the estimate based on similar applications or based on industry established standards. **Capacity Development Fees must be fully paid before the Certificate of Occupancy for the property being served will be issued by the Planning and Inspections Department.**

2. After 12 billing cycles, the actual average daily use shall be calculated from metered readings and an adjustment made to the Capacity Development Fee(s). The customer will be billed the difference or issued a refund as appropriate. Any additional amount owed the County must be paid within thirty (30) days of the billing date.
3. Major additions to the operations or change of tenants in a multi-unit building resulting in significant increases in the water usage will result in a re-calculation of the Capacity Development Fee
4. The minimum Capacity Development Fee shall be \$2,800, and \$950 for an Irrigation Capacity Development Fee.
5. For multi-family dwellings, a Capacity Development Fee shall be paid for each unit regardless of the number of water taps or meters installed.
6. Applicants with multiple dwelling units, multiple unit businesses, or multiple buildings on an individual tract of land may apply for one Water Tap to serve all units. However, applicant shall pay Capacity Development Fees shown in Table 2, in addition to any applicable Tap Fees included in Table 1. All lines connecting more than one building to a single Water Tap will require a permit issued by the North Carolina Department of Environment and Natural Resources.

**TABLE 3- MONTHLY VOLUMETRIC CHARGES FOR WATER**

**Residential In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons up to 15,000 gallons	\$ 4.72
Each additional 1,000 gallons over 15,000 gallons without drought restrictions	\$ 5.72
Each additional 1,000 gallons over 15,000 gallons under voluntary restrictions	\$ 7.15
Each additional 1,000 gallons over 15,000 gallons under mandatory restrictions	\$11.44
Bulk Water Rate per 1,000 gallons	\$ 8.00

**Commercial In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
Each Additional 1,000 Gallons	\$ 5.72
Interruptible Agricultural Rate per 1,000 gallons	\$ 4.00
Bulk Water Rate per 1,000 gallons	\$ 8.00

**Industrial In-County Rates**

Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons up to 200,000 gallons	\$ 4.72

Each additional 1,000 gallons over 200,000 gallons	\$ 4.22
--	---------

**Residential Out-of-County Rates**

Minimum Billing (0-2,500 gallons)	\$40.00
Each additional 1,000 gallons up to 15,000 gallons	\$ 4.72
Each additional 1,000 gallons over 15,000 gallons without drought restrictions	\$ 5.72
Each additional 1,000 gallons over 15,000 gallons under voluntary restrictions	\$ 7.15
Each additional 1,000 gallons over 15,000 gallons under mandatory restrictions	\$11.44
Bulk Water Rate per 1,000 gallons	\$ 8.00

**Commercial Out-of-County Rates**

Minimum Billing (0-2,500 gallons)	\$40.00
Each additional 1,000 gallons	\$ 5.72
Bulk Water Rate per 1,000 gallons	\$ 8.00

**Industrial Out-of-County Rates**

Minimum Billing (0-2,500 gallons)	\$40.00
Each additional 1,000 gallons up to 200,000 gallons	\$ 4.72
Each additional 1,000 gallons over 200,000 gallons	\$ 4.22

**TABLE 4- SEWER TAP FEES**

1-1/2-inch Low Pressure Sewer Tap	\$1,100
2-inch Low Pressure Sewer Tap	\$1,650
4-inch Gravity Sewer Tap	\$1,875
6-inch Gravity Sewer Tap	\$3,000

**TABLE 5 - CAPACITY DEVELOPMENT FEES FOR ALL SEWER CONNECTIONS**

Single Family Residential	\$ 3,000
All Other Connections	Calculated Rate

The Calculated Rate Formula is as follows:

$\$13.20 \times \text{average daily use} \times 1.4 = \text{Capacity Development Fee, or } \$3,000, \text{ whichever is greater.}$

(See Notes below)

Notes:

7. The initial Capacity Development Fee will be based on an estimated amount of usage. This estimate shall be provided by the customer where possible. Where the customer cannot provide a reasonable estimate, the Staff shall provide the estimate based on similar applications or based on industry established standards. **Capacity Development Fees must be fully paid before the Certificate of Occupancy for the property being served will be issued by the Planning and Inspections Department.**
8. After 12 billing cycles, the actual average daily use shall be calculated from metered readings and an adjustment made to the Capacity Development Fee. The customer will be billed the difference or issued a refund as appropriate. Any additional amount owed the County must be paid within thirty (30) days of the billing date.
9. Major additions to the operations or change of tenants in a multi-unit building resulting in significant increases in the sewer flow will result in a re-calculation of the Capacity Development Fee
10. The minimum Capacity Development Fee shall be no less than \$3,000.
11. For multi-family dwellings, a Capacity Development Fee shall be paid for each unit regardless of the number of sewer taps or meters installed.
12. Applicants with multiple dwelling units, multiple unit businesses, or multiple buildings on an individual tract of land may apply for one Sewer Tap to serve all units. However, applicant shall pay Capacity Development Fees shown in Table 5, in addition to any applicable Tap Fees included in Table 4. All lines connecting more than one building to a single Sewer Tap will require a permit issued by the North Carolina Department of Environment and Natural Resources.

**TABLE 6- MONTHLY VOLUMETRIC CHARGES FOR SEWER**

**Residential In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons up to 15,000 gallons	\$ 4.72
Each additional 1,000 gallons over 15,000 gallons without drought restrictions	\$ 5.72
Each additional 1,000 gallons over 15,000 gallons under voluntary restrictions	\$ 7.15
Each additional 1,000 gallons over 15,000 gallons under mandatory restrictions	\$11.44

**Commercial In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons	\$ 5.72

**Industrial In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
Each additional 1,000 gallons	\$ 5.72

**TABLE 7- MISCELLANEOUS FEES AND CHARGES**

Renter Deposit	\$75.00
Hydrant Meter Rental Deposit	\$300.00
Same Day Service Connection	\$25.00
Reconnect Fee	\$25.00
After Hours Fee (lock list only)	\$75.00
Return Check Fee	\$25.00
Late Payment Penalty	\$5.00
Broken Lock Fee	\$25.00
Broken Meter Box Ears Fee	\$25.00
Tampering Fine	\$500.00 or three times the actual water bill, whichever is greater
Meter Replacement Fee if no malfunction	\$175.00
Meter Test Fee if no error found	\$75.00
Account Inactive Fee	\$25.00
Civil Penalty (for irrigation violations during mandatory drought restrictions)	\$50.00 (1 <sup>st</sup> offense) \$250.00 (2 <sup>nd</sup> offense) \$500.00 (3 <sup>rd</sup> or more offense)

**UPON MOTION** by Commissioner Carlton, the Board voted 4 – 1 (Arena against) to approve Resolution #2010-41: Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina.

Commissioners Carlton and Klein praised Mr. Wood and Mr. Whittaker for their work on this.

Commissioner Mitchem asked about non-profits that have not paid before but will now.

Commissioner Arena expressed his displeasure about the irrigation tap fees. He said doing tap fees for irrigation during the most sensitive time and when experiencing drought and it's being decreased from \$4,000 to \$900. He said he does not understand why these tap fees are not kept higher.

**Proposed Architectural Contract, Bank of America Building Renovations:** Mr. Whittaker stated that included in the overall renovation plan for the County buildings is the Bank of America Building. The initial plan was to renovate it after the Hospital. However, continued problems with the Air Conditioner have led to a serious issue with flooring on the second floor in the Register of Deeds area. The humidity problem due to a lack of adequate cooling has caused the carpet to come unglued from the floor slab thus creating a tripping hazard. Attempts to re-glue the carpet have failed. Since this area is frequented by staff and the public, this is considered to be a priority item.

The Air Conditioner requires immediate attention. It may be possible to overhaul the unit but it seems more likely that the unit needs to be replaced. Replacement will also result in a more efficient unit which translates to energy savings.

Replacement of the carpet on the second floor should not proceed until the Air conditioner problem is resolved.

Since replacement of the carpet will require large scale movement of equipment and furnishings on the second floor, it is recommended that the second floor renovation proceed now, in conjunction with the air and carpet replacement.

Mr. Whittaker requested the Board's approval on the proposed contract from Steward, Cooper and Newell Architects to provide services for this project. Phase 1 of the contract will provide a complete plan and estimate for what is recommended (including air conditional recommendations). The cost for Phase I is \$14,500. Upon completion of Phase 1, the BOC will be presented with the options and cost for the entire renovation project (Air Conditioning and 2<sup>nd</sup> floor only). If the BOC decides to move forward, the Architect will proceed with complete design, bidding and construction administration. The total Architectural fees will be 9% of the construction cost (includes the Phase 1 cost).

Commissioner Klein stated that he is voting against this because he is not sure the County will need the Bank of America building in the long-haul.

**UPON MOTION** by Commissioner Carlton, the Board voted 3 - 2 (Klein and Mitchem against; Patton, Carlton, Arena for) to approve the Proposed Architectural Contract, Bank of America Building Renovations.

**Lincoln County Emergency Management Planning Committee and Resolution #2010-44: Resolution Establishing the Lincoln County Local Emergency Planning Committee and Approving Their Bylaws:** Ms. Lide stated that it is recommended that the Lincoln County Emergency Management Planning Management Planning Committee (LC-LEPC) and approving the attached LC-LEPC By-Laws.

The State Department of Emergency Management provides funding to local entities each year to support the local emergency management function. This year they have implemented performance criteria in order to continue to receive funds. One of the performance criteria is that the local entity must have a functioning local emergency management planning committee. For 2009-10, Lincoln County received \$38,379 in annual grant funding from the State; continuing to receive these funds is contingent upon having a Local Emergency Planning Committee. Lincoln County has had a local emergency planning committee, but it has been inactive since 2004.

The Resolution recreates a Lincoln County Local Emergency Planning Committee. A group of previous committee members and staff met to reformulate the By-Laws and defines the purpose of the Committee. The overall purpose of the LC-LEPC will be to oversee the local emergency management operations and to assess our local planning efforts for local emergency operations related to disasters and significant events. The LC-LEPC will be established by both the Lincoln County Board of Commissioners and the Lincoln City Council and it will make recommendations and reports to both boards. The LC-LEPC will review:

1. The Lincoln County Emergency Operations Plan (All Hazards).
2. The Standards Operating Guidelines (SOG) in Support of the McGuire Nuclear Plant.
3. The Lincoln County Hazard Mitigation Plan. This involves reviewing the preventive measures to reduce or eliminate life safety issues and reduce the potential for property damage in an emergency.
4. The emergency management program and functions. This includes determining the readiness of our community to respond to, recover from, and mitigate the effects of a disaster or emergency condition including predictable hazards (i.e., hurricanes, ice storms) as well as significant/catastrophic events (i.e., acts of terrorism, the utilization of weapons of mass destruction). This review will include preparedness, training, exercises, drills, mitigation, planning and the Emergency Management Planning Grant.
5. Review documentation regarding Hazardous and Waste materials to ensure compliance with requirements outlined in the Superfund Amendments and Reauthorization Act (commonly referred to as SARA-Title III).



Members of the LC-LEPC, which are listed in the By Laws, are from all the various organizations that would respond and support responses to an emergency event in our County.

The LC-LEPC will provide annual reports and recommendations to the County Commission and Lincolnton City Council.

**RESOLUTION #2010-44**

**RESOLUTION ESTABLISHING THE LINCOLN COUNTY LOCAL EMERGENCY  
PLANNING COMMITTEE AND APPROVING THEIR BY LAWS**

**WHEREAS**, the establishment of a local emergency planning committee is a requirement of the State Department of Emergency Management in order to receive continued funding support, and

**WHEREAS**, it is important to bring individuals who would provide emergency response services in the event of an emergency in our County together prior to such an event, to review and provide input into services and plans,

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

1. The Lincoln County Local Emergency Planning Committee is hereby created
2. The attached By Laws of the Lincoln County-Local Emergency Planning Committee are hereby approved as attached.

That this Resolution shall become effective on August 17, 2010.

Adopted the 16<sup>th</sup> day of August 2010.

LINCOLN COUNTY

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

ATTEST:

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

## **Lincoln County Local Emergency Planning Committee**

### **By-Laws**

#### **ARTICLE I - NAME**

This committee is established jointly by the Lincoln County Board of County Commissioners (BOCC) and by Lincolnton City Council (LCC) and shall be known as the Lincoln County Local Emergency Planning Committee and will be referenced in this document as LCLEPC.

#### **ARTICLE II - PURPOSE**

The purpose of the LCLEPC shall be to conduct an ongoing assessment of the integrated planning effort for local emergency operations related to disasters and significant events as part of a comprehensive effort to ensure community readiness. The scope of the Committee shall be to review and make recommendations to the County staff, Board of County Commissioners and Lincolnton City Council concerning the following:

1. The Lincoln County Emergency Operations Plan (*All Hazards*).
2. The Standard Operating Guidelines (SOG) in Support of the McGuire Nuclear Plant.
3. The Lincoln County Hazard Mitigation Plan. This includes reviewing preventive measures to reduce or eliminate life safety issues and reduce the potential for property damage in an emergency.
4. The emergency management program and functions. This includes determining the readiness of our community to respond to, recover from, and mitigate the effects of a disaster or emergency condition including predictable hazards (i.e., hurricanes, ice storms) as well as significant/catastrophic events (i.e., acts of terrorism, the utilization of weapons of mass destruction). This review will include preparedness, training, exercises, drills, mitigation, planning, and the Emergency Management Planning Grant.
5. Review documentation regarding Hazardous and Waste Materials to ensure compliance with requirements outlined in the Superfund Amendments and Reauthorization Act (commonly referred to as SARA - Title III).

### ARTICLE III - MEMBERSHIP

The LCLEPC shall have representation from the private and public sectors and shall include all critical functional areas for emergency management in our county. Government services, health care systems, critical infrastructure operations, business, industry (including the chemical segment) and volunteer agencies/organizations will be represented.

Membership in the LCLEPC shall consist of representatives from the following departments/agencies of local government, other governmental entities, and other private sector and volunteer agencies listed below, but additional representatives may be added by vote of the LCLEPC:

#### Lincoln County

Communications Center

County Commissioners

County Manager's Office

Lincoln County Sheriff's Office

Public Works Department

Emergency Management Office

Environmental Health

Fire Marshal's Office

Emergency Medical Services Department

Health Department

Planning and Inspections Department

Recreation Department

Social Services Department

#### City of Lincolnton

City Manager's Office

Police Department

Fire Department

Public Works

**Other Government Entities**

\* Department of Transportation

Lincoln County - Lincolnton Airport

Lincoln County Fire & Rescue Association Representative

\* North Carolina State Highway Patrol

\* North Carolina Division of Emergency Management

Lincoln County Schools

\* (non voting members)

**Private Sector and Volunteer Agencies**

Carolinas Healthcare System

American Red Cross - Lincoln County Chapter

United Way of the Carolinas - Lincoln County

AT & T

Duke Energy/Power Company

Rutherford Electric Coop

Piedmont Natural Gas Company

Gaston Community College

Chemical Industry and/or Chemical Association

Lincolnton-Lincoln Chamber of Commerce – Business and  
Industry Section  
Citizen Representation

Representation from the organizations listed above shall be designated by the department or agency. For government entities and wherever possible, representation should be designated by job title, not by individual name. This action ensures appropriate, adequate attendance for the committee to conduct business. The Lincoln County Office of Emergency Management shall maintain an active list of representatives. The Chairman shall nominate a citizen representative who must then be approved by the LCLEPC.

Working groups, standing committees or special committees of the LCLEPC may be formed by the Chairman or a vote of the LCLEPC. Due to the size of the group, it is anticipated that working groups and subcommittees will carry out the detailed reviews and report back to the full LCLEPC. Special committees may be established from time-to-time to work on a specific need.

For any department or agency of the City or County not listed above, the Director of Lincoln County's Emergency Management Office can provide representation.

**ARTICLE IV – OFFICERS**

1. Officers shall be defined as Chairperson, and Vice Chairperson.
  - The Chairperson shall be elected by committee membership to serve a two-year term.
  - The Vice Chairperson shall be elected by committee membership to serve a two-year term.
2. The Chairperson and Vice Chairperson shall not be from the same organizations,
3. Election of officers shall be by majority vote at the first meeting of every other year. In case of resignation by the Chairperson, the Vice Chairperson shall assume the duties of the Chairperson. Election of the

Vice Chairperson shall be conducted at the next scheduled meeting.  
The Chairperson and Vice Chairperson can serve no more than two consecutive terms.

4. Should both the Chairperson and Vice Chairperson be unavailable at a scheduled meeting, the meeting shall be led by the most senior representative of the Lincoln County Emergency Management Office in attendance.
5. A Recording Secretary shall be appointed by the Chairman from the general membership of the LEPC or the Emergency Management staff. The secretary will be responsible for recording attendance at all meetings, documenting and distributing the minutes of all meetings, and sending notices of non-attendance as described in Article VII.

#### ARTICLE V – DISBURSEMENTS

If any funds are allocated to the committee, they shall be managed and disbursed by Lincoln County in accordance with the standards of the fiscal officer. Funds shall be allocated in a manner that is consistent with sound fiscal policy and based on recommendations of committee membership. Projects and project costs shall be submitted to the chairperson and vice chairperson, discussed among committee members, and voted on to determine any funds allocated and manner of disbursement.

#### ARTICLE VI – MEETINGS

The LCLEPC shall meet at least two times per year upon call of the Chairman after giving 10 days notice to all Members; or upon similar call of 1/3 of the Members of the LCLEPC.

#### ARTICLE VII – ATTENDANCE

Each LCLEPC members shall provide a point of contact to receive meeting notices, meeting cancellations, copy of minutes, and committee or subcommittee reports.

LCLEPC members shall be required to attend at least 50 percent of all scheduled meetings. The committee members present at meetings constitutes a quorum required to conduct the

business of the LCLEPC. Any agency that fails to provide representation from their respective organization for 50 percent of the scheduled meetings in one year will be notified of attendance failure and corrective action (i.e., removal from the committee or modification of representative) will be discussed with the agency.

By July 31st of each year the LCLEPC chairperson shall submit to the Board of County Commissioners and Lincoln City Council annual report that shows the attendance for the previous year of all organizational representatives, departments, agencies, and key business executives.

#### ARTICLE VIII - POWERS- GENERAL

The LCLEPC shall have no powers, except as stated in the committee's by laws or as granted by the Lincoln City Council or Lincoln County Board of County Commissioners.

The LCLEPC is an advisory board and shall not have any power to impose fees or fines, or make collect revenues or make expenditures unless approved by Lincoln County.

The LCLEPC shall review and submit recommendations for changes to the plans and operations in writing as applicable to Lincoln County Emergency Management, the Board of County Commissioners, or the Lincoln City Council. Any recommendations for change must meet state and federal guidelines. Recommended changes, where possible may be incorporated by Lincoln County staff.

The LCLEPC may also provide advisory reports as necessary to the Lincoln County Board of Commissioners and the Lincoln City Council.

By July 31st of each year an annual report of the previous year's activities of the LCLEPC to include any recommendations made for improving Lincoln County's emergency management capabilities shall be submitted to the Lincoln County Board of Commissioners and the Lincoln City Council.

Revised 7/28/2010

Page 6

**UPON MOTION** by Commissioner Arena, the Board voted unanimously to approve the Lincoln County Emergency Management Planning Committee and Resolution #2010-44: Resolution Establishing the Lincoln County Local Emergency Planning Committee and Approving Their Bylaws.

**Resolution #2010-45: Resolution to Amend Lincoln County Personnel Policy with Respect to the Conditions of Employment:** Ms. Lide presented the following information:

It is recommended that the Board approved the attached Resolution, which modifies Article V Conditions of Employment of the Lincoln County Personnel Policy. The first change is a modification to Section 7 concerning Employee Harassment, and the second change is the addition of Section 18 concerning a new Return to Work Program for employees who have been injured on the job.

**Section 7 Employee Harassment (Hostile Work Environment): (Attachment #1)**

Section 7, Article V. of the County's current Personnel Policy addressed only issues related to sexual harassment. The proposed revision deletes the entire old section entitled Sexual Harassment and replaces it with an updated Section 7 Employee Harassment (Hostile Work Environment). The new policy, which is consistent with federal laws and regulations:

- Stipulates that the County has a zero tolerance for any unlawful harassment which is defined in the policy
- Prohibits sexual harassment and discourages romantic relationships with coworkers
- Stipulates reporting requirements, includes the procedures for reporting harassment and includes the process for resolving complaints.

All employees will be trained on the new policy in September.

**Section 18 Return to Work Program (Attachment #2)**

The second proposed change is to add Section 18 to incorporate a new Return to Work Program. In 2010-11, Lincoln County became self-insured for Workers Compensation. It is in our best interests to ensure that Worker's Compensation claims are handled efficiently and employees, who are able to return to work, do so as quickly as possible.



Our worker's compensation administrator has advised us that:

- Injured workers who are out of work six months have only a 25% chance of returning to work at all. The longer injured workers are off work, the less likely it is that they will ever return to work. Workers' Compensation costs grow as income replacement benefits continue to be paid during the injured worker's absence.
- Early return to work following an injury helps control costs directly related to the injury and reduces the potential impact of the injury on the employer's business as well as on the injured worker's life. Employees who are allowed to return to productive work as early as possible following an injury heal faster and better than those injured workers who remain off work.
- Injured workers who return to work during their healing period tend to require fewer medical treatments and incur less medical expense related to the injury. Work becomes part of medical treatment and rehabilitation and allows the injured worker to take an active role in his or her recovery.
- Successful Return to Work Programs are reported to reduce workers' compensation costs by as much as 30% to 40%.

The proposed Program will assist us in better managing any Workers Compensation claims that occur. It establishes a proactive process whereby a contracted physician would immediately evaluate all Workers Compensation claims and make return to work recommendations based on job descriptions and job task analysis. The County's contracted Workers Compensation Administrator, Compensation Claims Solutions, would manage medical consultations.

The Program also establishes a process for creating "transitional duties" for injured employees. This will allow workers to return to work quickly as they complete necessary medical treatment.

Staff has developed the necessary paperwork to implement this program and selected samples of the forms and letters are attached for your information (Attachment 3). Included are:

- Overall Roles and Responsibilities
- Letter to Treating Physician
- Authority to Release Medical Information
- Workers' Compensation Medical Status Questionnaire
- Transitional Duty Work Assignments – Employees Rights/Responsibilities
- Return to Work – Transitional Duty – Physician's Medical Letter
- Transitional Duty Offer Letter
- Transitional Duty Assignment Agreement
- Transitional Duty Assignment Completion/Closure Form

Through implementation of this Return to Work Program we hope to reduce costs and improve productivity, safety, and employee morale.

**RESOLUTION #2010-45**

**RESOLUTION TO AMEND LINCOLN COUNTY PERSONNEL POLICY  
WITH RESPECT TO THE CONDITIONS OF EMPLOYMENT**

**WHEREAS**, the Lincoln County Personnel Policy adopted by Resolution of the Board of Commissioners in 2005 and made effective September 1, 2005, contains provisions regulating the conditions of employment, and

**WHEREAS**, the Board believes that it is necessary and desirable to amend the existing provisions to address concerns about Unlawful Harassment and to establish a Return to Work Program for worker's compensation injuries,

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

1. That the Lincoln County Personnel Policy Article V, Conditions of Employment, Section 7 is amended to include the attached provisions concerning unlawful harassment; and
2. That the Lincoln County Personnel Policy Article V, Conditions of Employment, is amended to establish Section 18 Return to Work Program as included in the attachment.

That this amendment shall become effective on August 3, 2010.

Adopted this 16<sup>nd</sup> day of August 2010.

LINCOLN COUNTY

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

ATTEST:

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

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve Resolution #2010-45: Resolution to Amend Lincoln County Personnel Policy with Respect to the Conditions of Employment.

**Resolution #2010-46: Resolution in Support of North Carolina's Current Public Alcoholic Beverage Control System:**

**RESOLUTION #2010-~~46~~: A RESOLUTION IN SUPPORT OF NORTH CAROLINA'S  
CURRENT PUBLIC ALCOHOLIC BEVERAGE CONTROL SYSTEM**

**WHEREAS**, Chapter 18B of the North Carolina General Statutes addresses the regulation of alcoholic beverages in our state; and

**WHEREAS**, current North Carolina law establishes a uniform system of control over the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages in North Carolina; and

**WHEREAS**, local government control is central to the current alcoholic beverage control system; it is a local decision to establish and operate ABC stores, and local government, acting through an appointed local ABC Board, balances the control, profits and availability of spirits in its jurisdiction; and

**WHEREAS**, when local voters approved liquor sales for off-premises consumption, the voters did not vote to allow liquor to be sold in private retail establishments, but only through publicly controlled local ABC stores; and

**WHEREAS**, current law provides that profits from ABC store sales are returned to local government, and this revenue stream is a critical source of local government funding with \$180,000 budgeted from the County ABC Board and \$28,000 budgeted from the City ABC Board in FY 2011; and

**WHEREAS**, it is a priority to maintain current sources of revenue, especially in the current challenging economic times;

**NOW, THEREFORE, BE IT RESOLVED** that the Lincoln County Board of Commissioners does hereby support the continuance of the Alcoholic Beverage Control System, and opposes any efforts to privatize the ABC system, diminish local control or to diminish the local government revenue stream afforded from local ABC store profits.

Adopted this 16th day of August, 2010.

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

ATTEST:

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

The Commissioners had a discussion about the government running liquor sales.

**UPON MOTION** by Commissioner Carlton, the Board voted 4 – 1 (Mitchem opposed) to disapprove Resolution #2010-46: Resolution in Support of North Carolina's Current Public Alcoholic Beverage Control System:

**Resolution #2010-47: Request to House Speaker Joe Hackney to Reverse the Ban on Sectarian Prayers:** UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve Resolution #2010-47.

**Resolution 2010-47:  
Request to House Speaker Joe Hackney to Reverse  
The Ban on Sectarian Prayers**

WHEREAS, North Carolina State House Speaker Joe Hackney recently banned the use of sectarian prayers by volunteer pastors during opening prayers for the North Carolina House of Representatives; and,

WHEREAS, a volunteer minister presenting the opening prayer in the 2010 North Carolina House of Representatives was relieved of his duty due to praying, "In Jesus Name"; and,

WHEREAS, ministers speaking before the NC House of Representatives should be allowed to offer sectarian prayers according to his/her conscience.

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners calls upon House Speaker Joe Hackney to reverse the ban on sectarian prayers in the North Carolina House of Representatives.

BE IT FURTHER RESOLVED that the Lincoln County Board of Commissioners challenges the other 99 counties in North Carolina to join in this request to Speaker Hackney.

---

Alex E. Patton, Chairman

ATTEST:

---

Amy S. Atkins  
Clerk to the Board

**Motion to Adopt on Second Reading - Ordinance #2010-10: An Ordinance Approving an Agreement Granting a 90-day Extension of the Current Nonexclusive Construction and Demolition and Debris Landfill Franchise to Lake Norman Landfill, LLC:** Mr. Wood stated that this was approved at the last meeting, but this is a second reading since any franchise agreement takes 2 readings. This is not the final agreement, but a 90-day extension.

**ORDINANCE #2010-10; AN ORDINANCE APPROVING AN AGREEMENT  
GRANTING A 90-DAY EXTENSION OF THE CURRENT NONEXCLUSIVE  
CONSTRUCTION & DEMOLITION DEBRIS LANDFILL FRANCHISE TO  
LAKE NORMAN LANDFILL, LLC**

**WHEREAS**, the Board of Commissioners enacted the Lincoln County Landfill Franchise Ordinance on November 7, 2003; and

**WHEREAS**, North Carolina General Statutes §153A-136(a)(3) authorizes counties to regulate the disposal and other disposition of solid wastes by granting franchises to one or more persons for the non-exclusive right to commercially dispose of solid wastes within the county; and

**WHEREAS**, Lake Norman Landfill, LLC (hereinafter called "Franchisee") is currently operating an approximately 110-acre construction and demolition debris landfill (the "Landfill") within the jurisdiction of Lincoln County; and

**WHEREAS**, at the time that Lake Norman Landfill, Inc. began operations at the Landfill, the County by affidavit affirmed to the North Carolina Department of Environment and Natural Resources ("DENR") that Lake Norman had all required approvals for operation of the Landfill; and

**WHEREAS**, Lake Norman wanted to move forward with the next phase of the Landfill pursuant to a new Ordinance Granting a Nonexclusive Construction and Demolition Debris Landfill Franchise to Lake Norman Landfill, Inc.; and

**WHEREAS**, the Board of Commissioners granted in January, 2004 to Lake Norman Landfill, Inc. a nonexclusive franchise for the disposal of construction and demolition debris in Lincoln County in said landfill; and

**WHEREAS**, Franchisee has succeeded to all the interests of Lake Norman Landfill, Inc. in this franchise and the ownership and operation of this landfill; and

**WHEREAS**, the Lincoln County Board of Commissioners and the Franchisee wish to renew this franchise agreement, but need additional time to negotiate the terms and conditions, and the existing franchise and agreement will terminate on August 30, 2010 if not extended; and

**WHEREAS**, the parties desire to enter into a ninety (90) day extension of the existing franchise and agreement;

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE  
COUNTY OF LINCOLN, NORTH CAROLINA DO HEREBY ORDAIN:**

**Section 1.** Pursuant to the Lincoln County Landfill Franchise Ordinance and North Carolina General Statutes §130A-294, §153A-121 and §153A-136, Franchisee is hereby granted an extension of its nonexclusive franchise for a period of ninety (90) days, commencing on August 31, 2010 and ending on November 28, 2010, under the same terms and conditions of the Franchise and Agreement adopted by Ordinance dated January 5, 2004, for its Construction and Demolition Landfill on Quarry Lane in Lincoln County as currently permitted by the NC Department of Environment and Natural Resources, Solid Waste Division, and to operate said Landfill in Lincoln County.

**Section 2.** This Franchise and Agreement extension shall be interpreted and enforced under the laws of the State of North Carolina.

**Section 3.** Should any part of this Franchise and Agreement be declared invalid by a court having competent jurisdiction, all other parts of it shall remain in full force and effect.

**Section 4.** This ordinance requires reading and approval at two regular meetings of the Board of Commissioners of Lincoln County, pursuant to and as required by N.C.G.S. §153A-46, and will become effective following the second reading and approval.

First Reading and Approval on August 2, 2010.  
Second Reading and Approval on August 16, 2010.

This \_\_\_\_ day of \_\_\_\_\_, 2010.

LINCOLN COUNTY, NC BOARD OF  
COMMISSIONERS:

ATTEST:

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

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

LAKE NORMAN LANDFILL, LLC

ATTEST:

By: \_\_\_\_\_  
NAME

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TITLE

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve Ordinance #2010-10 on the second reading.

**Capital Project Report – Burns Whittaker:** Burns Whittaker presented the Capital Project Report.

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

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

**County Commissioners' Report:** Nothing reported.

**County Attorney's Report:** Jeff Taylor updated the Board on Burton Creek. He said the foreclosure sale was at 10 a.m. this morning. He said Fifth-Third was the high bidder which launches the 10-day upset bid period. If there are no upset bids, Fifth-Third's bid becomes final

Mr. Taylor gave an update on the Mullinax case. The property owner wants to come into compliance, but cannot move forward until the estate is settled.

**Vacancies/Appointments:** UPON MOTION by Commissioner Carlton, the Board voted unanimously to make the following appointments:

**Vacancies:**

Nursing and Adult Care Home Community Advisory Committee  
LNRC  
Region F Aging Advisory Committee

**Appointments:**

Region F Aging Advisory Committee  
- Reappoint Val Casey

Historic Properties Commission  
- Appoint Jason Harpe as Ex-officio  
- Appoint Tina Guffy as Ex-officio  
- Appoint Andrew Bryant as Ex-officio  
- Appoint Laura Simmons as Ex-officio

**Calendar:** Chairman Patton presented the September 2010 calendar.

**Closed Session:** UPON MOTION by Commissioner Carlton, the Board voted unanimously to enter closed session pursuant to NCGS 143-318.11(a)(3) to consult with legal counsel in order to preserve attorney-client privilege and NCGS 143-318.11(a)(6) concerning a personnel issue.

Nothing was reported from Closed Session.

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

---

Amy S. Atkins, Clerk  
Board of Commissioners

---

Alex E. Patton, Chairman  
Board of Commissioners