

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, OCTOBER 4, 2010**

The Lincoln County Board of County Commissioners met on October 4, 2010 at the Citizens Center, Board of Commissioners Room, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman  
Bruce Carlton, Vice Chair  
James A. Klein

Commissioners Not Present:

George Arena  
Carrol Mitchem

Planning Board Members Present:

Jeff Frushtick, Chairman  
Gary Garlow, Vice-Chairman  
John Anderson  
Tom Campbell  
Cathy Davis  
Keith Johnson  
Shelly Johnston  
Dr. Richard Pence  
Christine Poinsette

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 and Inspections Director  
Randy Hawkins, Zoning Administrator  
Andrew Bryant, Planner  
Ron Rombs, EMS Director  
Leon Harmon, Finance Director

**Call to Order:** Chairman Patton called the October 4, 2010 meeting of the Lincoln County Board of Commissioners to order.

**Invocation:** Cody Johnsen gave the Invocation and 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

OCTOBER 4, 2010

- 6:30 PM Call to Order
- 6:31 PM Invocation – Commissioner Carlton
- 6:32 PM Pledge of Allegiance
1. 6:33 PM Adoption of Agenda
2. 6:35 PM Consent Agenda
- Approval of Minutes
    - September 13, 2010
    - September 20, 2010
  - Tax Requests for Releases - More than \$100
    - August 16 - September 15, 2010
  - Sponsored Group Status
    - White Dove Evangelistic Ministries
- 2a. Presentation of the findings from the NCACC Youth Summit - Cody Johnsen and Proclamation of National 4-H Week - Guy Perkins
3. 6:40 PM Zoning Public Hearings – Randy Hawkins
- ZMA #580 Patrick Elmore, applicant (Parcel ID# 76544, 76545 and 76546) A request to rezone 1.8 acres from I-G (General Industrial) to B-G (General Business). The property is located on the northwest corner of N.C. 16 Business and Commerce Drive in Catawba Springs Township.
- ZMA #581 Gene Collins, applicant (Parcel ID# 55206 and 82469) A request to rezone 1.2 acres from I-G (General Industrial) to B-G (General Business). The property is located on the northeast corner of N.C. 27 and Joshua Court in Ironton Township.
- PD #2010-2 Shoreline Property Management Inc., applicant (Parcel ID# 34171, 87814, 87813 and 85074) A request to rezone 31 acres from I-G (General Industrial) and B-G (General Business) to PD-MU (Planned Development Mixed Use) to allow 98,800 square feet of commercial/office space and 252 multi-family dwelling units. The property is located about 500 feet south of N.C. 73 and 700 feet west of N.C. 16 Business and borders Advance Avenue, South Little Egypt Road and the new N.C. 16 bypass in Catawba Springs Township.
4. 7:20 PM Lincoln County and City of Lincolnton Hazard Mitigation Plan Adoption- Rob Carson
5. 7:30 PM Public Comments
- 5a. 7:45 PM Presentation of Schedule of Values by Tax Administrator - Madge Huffman

- 5b. 7:55 PM Set Date for Required Public Hearing on Schedule of Values on November 1, 2010 at 6:30 PM
  - 6. 8:00 PM Drug and Alcohol Testing Policy and Resolution #2010-49: Resolution to Amend Personnel Policy with Respect to the Conditions of Employment- James Luster
  - 6a. Joint Public Hearing with Historic Properties Commission
    - John Moore House
    - Leatherman Barber Shop
  - 7. 8:10 PM Airlie Park Engineering Contracts - Burns Whittaker
  - 8. 8:20 PM Request for Waived Inspection Fees for St. Paul's ELCA - George Wood
  - 9. 8:25 PM Motion to Adopt Resolution #2010-50: Resolution to Amend the Water and Sewer Fee Schedule - Burns Whittaker
  - 10. 8:35 PM Community Trade Adjustment Assistance Grant/EDA Lincoln- Lincoln County Airport Sewer Improvements - Martha Lide
  - 11. 8:45 PM Charging Capacity Fees for Projects in Progress - Burns Whittaker
  - 12. 8:55 PM Request for Additional Funding from the NC Forestry Service, Division of Forest Resources - George Wood
  - 13. 9:00 PM Motion to Adopt Ordinance #2010-14: An Ordinance Approving an Agreement Granting a Nonexclusive Construction & Demolition Debris Landfill Franchise to Lake Norman Landfill, LLC - George Wood
  - 14. 9:05 PM Motion to Adopt Resolution #2010-51: A Resolution Approving the Fee Schedule for the Lake Norman Landfill, LLC
  - 15. 9:10 PM Other Business
  - 16. 9:15 PM Closed Session
- Adjourn

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adopt the agenda removing Agenda item 6.

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

- Approval of Minutes
  - September 13, 2010
  - September 20, 2010
- Tax Requests for Releases - More than \$100
  - August 16 - September 15, 2010

NAME	YEAR	A/C NO	AMOUNT
Barnett, Lynn Mae	2010	0227333	\$102.27
Bilmanis, Andris John	2010	0227176	\$279.33
Bittikofer, Michael John	2010	0205823	\$102.26
Davis, Frank R	2010	0156020	\$163.97
Ervin, Lawrence Lincoln	2010	0194519	\$217.82
Herrington, Alan Edward	2009	0200484	\$239.25
Herrington, Sharon Edith	2008	0209915	\$153.40
Krauth, Thomas Anthony	2010	0133442	\$124.93
Lake Norman Quarry	2010	0160541	\$138.33
Luckadoo, Steve Lorn	2010	0070521	\$209.27
Peeler, Terry Lee	2010	0214776	\$277.89
Pitt, Julie Elizabeth	2010	0225736	\$168.37
Radut, Gabriela	2010	0227638	\$120.52
Rushing, Hubbard Bryant	2010	0227667	\$122.04
Tracey, Randall Ray	2009	0209332	\$336.00
Wilson, Tyler Matthew	2010	0226574	\$133.34
Yount, Kelly Turner	2010	0192816	\$114.66
<b>TOTAL</b>			<b>\$3,003.65</b>

NAME	YEAR	A/C NO	AMOUNT
Beam , Lila May	1999-2010	06103	\$1,325.84
Club at Westport LLC The	2010	0217526	\$1,703.31
Crabbe, Alec	2010	0228291	\$113.00
Exper-Teez	2009-2010	0192004	\$104.76
Roadway Equipment Co.	2010	0192874	\$665.99
Roadway Equipment Co.	2010	0218602	\$3,900.19
Spivey, Heath	2010	0228358	\$360.73
Walker, John	1999-2001	0100703	\$288.37
Young, Willie B	2010	0196118	\$138.00
<b>TOTAL</b>			<b>\$8,600.19</b>

- Sponsored Group Status
- White Dove Evangelistic Ministries

Presentation of the findings from the NCACC Youth Summit - Cody Johnsen and Proclamation of National 4-H Week - Cody Johnsen presented the findings from the NCACC Youth Summit. Commissioner Carlton stated that he and Commissioner Klein met with this group and were impressed that the youth in our county are coming together on important issues and using great resources to come up with solutions to some of these things. He applauded Cody Johnsen and his colleagues for what they do.

Commissioner Carlton read the Proclamation of National 4-H Week.

**New Business/Advertised Public Hearings:** Chairman Patton announced that this was the date, Monday, October 4, 2010, and the time, 6:30 P.M., which was advertised in the Lincoln Times-News on September 24 and October 1.

**NOTICE OF PUBLIC HEARINGS**

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, October 4, 2010, at 6:30 p.m. to consider the following matters:

**ZMA #580 Patrick Elmore, applicant** (Parcel ID# 76544, 76545 and 76546) A request to rezone 1.8 acres from I-G (General Industrial) to B-G (General Business). The property is located on the northwest corner of N.C. 16 Business and Commerce Drive in Catawba Springs Township.

**ZMA #581 Gene Collins, applicant** (Parcel ID# 55206 and 82469) A request to rezone 1.2 acres from I-G (General Industrial) to B-G (General Business). The property is located on the northeast corner of N.C. 27 and Joshua Court in Ironton Township.

**PD #2010-2 Shoreline Property Management Inc., applicant** (Parcel ID# 34171, 87814, 87813 and 85074) A request to rezone 31 acres from I-G (General Industrial) and B-G (General Business) to PD-MU (Planned Development Mixed Use) to allow 98,800 square feet of commercial/office space and 252 multi-family dwelling units. The property is located about 500 feet south of N.C. 73 and 700 feet west of N.C. 16 Business and borders Advance Avenue, South Little Egypt Road and the new N.C. 16 bypass in Catawba Springs Township.

Interested parties may appear at the public hearings, 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.

2T: Sept. 24, Oct. 1, 2010

**Zoning Public Hearings – Randy Hawkins:**

**Zoning Map Amendment No. 580 – Patrick Elmore, applicant:** Randy Hawkins presented the following information concerning ZMA 580.

The applicant is requesting the rezoning of 1.8 acres from I-G (General Industrial) to BG (General Business). This property is undeveloped. If the rezoning is approved, it could be developed for any of the uses permitted in the B-G district, subject to the standards of the Unified Development Ordinance.

This property is located on the northwest corner of N.C. 16 Business and Commerce Drive. It is adjoined by property zoned I-G, B-N (Neighborhood Business) and P-MU (Planned Mixed Use). Public water and sewer are available at this location. Land uses in this area include industrial, business and residential. The Lincoln County Land Use Plan designates this property as part of the NC 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.  
Additional Information

Under current I-G zoning: building material sales, contractor’s yard, machinery repair,

manufacturing, self-storage facility, vehicle service, vehicle repair (body shop), etc. Under requested B-G zoning: bank, general retail, indoor recreation, hair salon, offices, restaurant (including fast food restaurant), vehicle service, etc.

Commissioner Carlton asked if there are any specific plans for the property. Randy Hawkins said it is a straight rezoning and there are no specific plans.

Planning Board Member Gary Garlow asked if it was the applicant's intent to combine the three lots into a single lot.

Patrick Elmore said he plans on combining the lots into one parcel to develop.

Chairman Patton opened the public hearing concerning Zoning Map Amendment No. 580 – Patrick Elmore, applicant.

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

**Zoning Map Amendment No. 581 – Gene Collins, applicant:** Randy Hawkins presented the following information concerning ZMA 581.

The applicant is requesting the rezoning of 1.2 acres from I-G (General Industrial) to BG (General Business). The applicant is proposing to use an existing building as a discount grocery store. General retail is not permitted in the I-G district. If the rezoning is approved, the property could be used for any of the uses permitted in the B-G district.

This property is located on the northeast corner of N.C. 27 and Joshua Court in Ironton Township. It is adjoined by property zoned I-G, B-G and R-S (Residential Suburban). Land uses in this area include industrial, business and residential. This property is located in an area designated by the Lincoln County Land Use Plan as Mixed Commercial Residential, just outside an area designated as Community Business. Mixed Commercial Residential areas are envisioned to become true mixed-use villages consisting of higher-density residential uses and associated small-scale and pedestrian-oriented office and retail uses.

#### **Permitted uses**

Under current I-G zoning: building material sales, contractor's yard, machinery repair, manufacturing, self-storage facility, vehicle service, vehicle repair (body shop), etc. Under requested B-G zoning: bank, general retail, indoor recreation, hair salon, offices, restaurant (including fast food restaurant), vehicle service, etc.

Jeff Frushtick asked if they have identified if the driveway will be on Joshua Court or NC 27. Randy Hawkins stated that the existing driveway on NC 27 will be used.

Mr. Frushtick asked as a change of use if they will have to modify the building for the UDO. Mr. Hawkins stated that as existing development, it would be exempt from the design requirements of the UDO.

Chairman Patton opened the public hearing concerning Zoning Map Amendment No. 581 – Gene Collins, applicant.

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

**Planning Development No. 2010-2 – Shoreline Property Management Inc., applicant:** Randy Hawkins presented the following information concerning PD 2010-2.

The applicant is requesting the rezoning of 31 acres from I-G (General Industrial) and B-G (General Business) to PD-MU (Planned Development Mixed Use) to permit the property to be developed with 98,800 square feet of commercial/office space and 252 multi-family units in accordance with a master plan.

PD-MU is a zoning district established under the Unified Development Ordinance to provide for coordinated developments that may include commercial, office, educational, civic, institutional, service and residential uses. Like other planned development districts, it's an option provided to encourage higher-quality developments by allowing for additional flexibility not available in the general zoning districts.

The property is located about 500 feet south of N.C. 73 and 700 feet west of old N.C. 16 Business and borders Advance Avenue, South Little Egypt Road and the new N.C. 16 bypass. It is adjoined by property zoned B-G and I-G. Land uses in this area are predominantly commercial. Public water and sewer service are available in this area. The majority of this property lies in an area classified by the Lincoln County Land Use Plan as Regional Business. According to the plan, such areas are suitable for a wide array of retail, business and support services as well as denser residential developments (up to eight units per acre). A smaller portion of this property is classified as Mixed Residential, suitable for densities ranging from 2-8 units per acre, proportional to the amount of open space preserved.

The General Development Standards of the UDO apply to planned developments, unless specifically waived by the Board of Commissioners. In this case, the applicant is not requesting any waivers.

Chairman Patton opened the public hearing concerning Planning Development #2010-2 – Shoreline Property Management Inc., applicant.

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

**Lincoln County and City of Lincolnton Hazard Mitigation Plan Adoption – Rob Carson:** Rob Carson stated that approximately a year ago, staff was before the Board seeking tentative approval for the Lincoln County and City of Lincolnton Hazard Mitigation Plan. The Board granted approval and staff turned the plan over to North

Carolina Emergency Management who turned it over to FEMA. The plan has been approved and the last step in the process is to formally adopt the plan.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the Lincoln County and City of Lincoln Hazard Mitigation Plan.

**Public Comments:** Chairman Patton opened the public comments section.

Martin Oakes, 8057 Lucky Creek Lane, stated that he finds it interesting that the Schedule of Values is being presented tonight. He said to do all this tax stuff, there needs to be a county assessor. He said there is no assessor and the last time was appointed was before 2000 and according to Statute the assessor's term is no more than four years.

James Leatherman, 311 Terrace Place, stated that he is starting up the Lincoln County Last Mans' Club of WWII Veterans and asked if he needed any license to do that.

Rudy Bauer, 8252 Blades Trail, stated that he understands Fifth-third owns the Burton Creek property. He asked who would be contacting Fifth-third about the dumping situation. He asked what will be done about the sediment that goes into their cove from that land.

Chairman Patton stated that they have been made aware of all issues.

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

**Presentation of Schedule of Values by Tax Administrator – Madge Huffman:**  
Madge Huffman gave a Powerpoint Presentation and presented the Board with the 2011 Schedule of Values.

**Set Date for Required Public Hearing on Schedule of Values on November 1, 2010 at 6:30 p.m.:** **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the date set for the required public hearing on the Schedule of Values as November 1, 2010.

**Airlie Park Engineering Contracts – Burns Whittaker:**

Burns Whittaker stated that the Board recently approved a request to waive the requirements to select an Engineer to provide design services for the access road into Airlie Park. This was based on the short schedule required by the prospective industry to have the road in place. Further the Board authorized the direct engagement of McGill and Associates to perform the work.

An RFT was issued for the remainder of the work (sewer and water lines) to serve Airlie Park. Nine proposals were received. After reviewing the proposals and considering the



coordination between the road alignment, permitting and other issues as well as the qualifications of the firms, Mr. Whittaker recommended the selection of McGill and Associates to perform the water and sewer design, thereby keeping the entire project under one firm.

The budget estimate for the design and permitting work was \$231,900 based on a construction estimate of \$1,776,457. By combining the projects into one and keeping the inspection work in house, they have negotiated a contract fee of \$118,900 with McGill and Associates.

Mr. Whittaker requested the Board's approval of the Engineering Contract.

The following additional work will be required:

The McGill contract includes an hourly fee in addition to the base fee for Construction Services in the amount not to exceed \$54,500. By keeping the inspection services in house, they estimate they will utilize McGill on a very limited basis and that this fee should not exceed \$15,000.

Mr. Whittaker also recommended approval of a contract with Boyle Consulting Engineers to perform Geo-technical Testing related to the design. These services can be included in the McGill contract but in order to avoid the additional overhead charges, they have opted to contract directly with Boyle. This work is to be performed on a time and material basis with a Not to Exceed cost of \$10,000.

**UPON MOTION** by Commissioner Klein, the Board voted 2 -1 (Carlton against) to approve the Airlie Park Engineering Contracts.

**Request for Waived Inspection Fees for St. Paul's ELCA – George Wood:** Mr. Wood stated that a request was received from St. Paul's Lutheran Church in Crouse. They are asking for waived building inspection fees for an ADA-required ramp. He said that after speaking with Kelly Atkins, Director of Planning and Inspections, he discovered that the county does not waive these fees for non-profits or anybody else. The only waiver Mr. Atkins knew of was for the YMCA and this was in lieu of a cash contribution made. Mr. Wood recommended that the Board not change the policy.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to table this to get more information.

**Motion to Adopt Resolution No. 2010-50: Resolution to Amend the Water and Sewer Fee Schedule – Burns Whittaker:** Mr. Whittaker recommended making some changes to the Schedule of Fees and Charges for the Water and Sewer System.

First, the Board approved charging airport hangars only one-half the normal capacity development fee over a year ago. This change was not incorporated into the schedule.

Second, they would like to have a graduated penalty for meter tampering. Right now, the first offense is \$500. That is excessive and virtually everyone appeals it. They recommended changing it to \$100 for a first offense, \$250 for a second offense, then \$500 for any subsequent offense.

Third, he recommended capping the water and sewer capacity development fee for an industry at \$50,000 each.

RESOLUTION #2010-50: 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, the Board of Commissioner had changed the rate structure in August, 2010; and

WHEREAS, the County Manager and Public Works Director have been working with LEDA on an industrial prospect that would use a considerable amount of water daily, and the existing capacity development fee would be prohibitive in the recruitment of this and similar industries; and

WHEREAS, the County needs to develop a policy that will allow industrial capacity fees to be reduced as an incentive to recruit such industries; and

WHEREAS, the County Manager and Public Works Director have prepared an amendment to the **Schedule of Fees and Charges for Water and Sewer Services**, which includes a change in the industrial water and sewer capacity development fees; and a change to the penalty for tampering with a meter; 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 4th day of October, 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	\$2,800
Airport Hangars	\$1,400
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, whichever is greater.  
No Industrial Capacity Development Fee shall exceed \$50,000. (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
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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
Airport Hangar	\$1,500

All Other Connections

Calculated Rate

The Calculated Rate Formula is as follows:

\$13.20 X average daily use X 1.4 = Capacity Development Fee, or \$3,000, whichever is greater.  
No Industrial Capacity Development Fee shall exceed \$50,000. (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
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**Commercial In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
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Each additional 1,000 gallons	\$ 5.72
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**Industrial In-County Rates**

Minimum Billing (0-2,500 gallons)	\$20.00
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Each additional 1,000 gallons	\$ 5.72
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**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	
First Offense	\$100.00
Second Offense	\$250.00
Third and Subsequent Offenses	\$500.00
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	\$50.00 (1 <sup>st</sup> offense)
mandatory drought restrictions)	\$250.00 (2 <sup>nd</sup> offense)
	\$500.00 (3 <sup>rd</sup> or more offense)

Commissioner Klein asked if these changes have been discussed with Rafetelis. Mr. Whittaker stated that they have been discussed and they are ok with it.

The Board discussed the changes and the water usage by industry.

**UPON MOTION** by Commissioner Klein, the Board voted unanimously to adopt Resolution No. 2010-50: Resolution to Amend the Water and Sewer Fee Schedule.

**UPON MOTION** by Commissioner Arena, the Board voted unanimously to defer a vote on the repayment plan until the full board is present.

**Community Trade Adjustment Assistance Grant/EDA Lincolnton-Lincoln County Airport Sewer Improvements – Martha Lide:** Ms. Lide presented the following information.

It is recommended that the Board approve the grant agreement with the U.S. Department of Commerce's Economic Development Administration for a \$1,631,625 Community Trade Adjustment Assistance Grant for Sewer Improvements at the Lincolnton-Lincoln County Airport. A 5% match (\$85,875) is required, and this will be split equally between the City of Lincolnton and Lincoln County. The recipients of the grant are Lincoln County, the City of Lincolnton and Lincolnton-Lincoln County Airport.

The grant will allow for construction of approximately 7,500 feet of gravity main sewer, 2.5 miles of forced main sewer line, and a lift station. These improvements will allow us to open up Phase I of an Airport Business Park.

Martha Lide thanked those who helped with this grant, George Wood, George Arena, Barry McKinnon, Barry Matherly, Jeff Emory, Jeff Lynn, Jeff Taylor, Burns Whittaker, Adam Spilman, Steve Peeler, Todd Wolfhorst, Wesley Sigmon, and Laura Mundell.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the Community Trade Adjustment Assistance Grant/EDA Lincolnton-Lincoln County Airport Sewer Improvements.

**Joint Public Hearing with the Historic Properties Commission:**

Jason Harpe presented two buildings for Local Landmark Designation.

The first was for the John Moore House, located on South Cedar Street in Lincolnton.  
The second was for the Leatherman Barber Shop.

Chairman Patton opened the public hearing for the John Moore House.  
Being no speakers, Chairman Patton declared the public hearing closed.

Chairman Patton opened the public hearing for the Leatherman Barber Shop.  
Being no speakers, Chairman Patton declared the public hearing closed.

**Charging Capacity Fees for Projects in Progress – Burns Whittaker:** Burns Whittaker presented the following information:

1. Under current policy, customers who are constructing a new home may apply for water service but delay payment of the Capacity Development Fee until the Certificate of Occupancy (CO) is issued. We have several customers who fall in that category now and with the recent reduction in the CDF, we request direction regarding the fee to be paid. There are 2 separate categories that are addressed herein.
2. The first group are those who have **actually paid their CDF but a CO has not been issued**. According to a record search we have found 12 such customers. The decision to be made is whether to refund the difference between the fee paid and the new fee at the time that the CO is issued.
3. The second group are **those who delayed payment of the fees until the CO is issued**. There are 8 customers in this category. The decision here is whether to charge them the new CDF or the CDF which was in effect when the application was made.
4. Our recommendation is to make all fees effective on the date the CO is issued and therefore refund the difference to those already paid and to charge the new (lower) fees to those who deferred payment.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve charging capacity fees for projects in progress.

**Request for Additional Funding from the NC Forestry Service, Division of Forest Resources – George Wood:** Mr. Wood presented the following information.

Mr. Wood presented a letter from the District Forester, requesting assistance from the 9 counties to fund a position that is not funded in the State's budget. The Forestry Division has had to cut back on its aviation assets, which cuts back on their ability to control wildfires. They can get access to another bulldozer, but have no means of paying for the operator. They are asking that the counties provide that funding.

Mr. Wood said in discussing this with them, he believes the \$3,000 additional funding is a small expense to better protect our citizens. Without it, we would be more limited in our ability to respond in a timely manner. We currently budget \$69,143 in the Forestry

Division annually. In the future, the budgets cost may go to \$4,000 to \$6,000, depending on State funding.

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve the request for additional funding from the NC Forestry Service, Division of Forest Resources.

**Historic Properties Commission Recommendations:** Jason Harpe presented the Historic Properties Commission recommendations.

The HPC has recommended the John Moore House and Leatherman Barber Shop for designation as local historic landmarks.

AN ORDINANCE DESIGNATING AS AN HISTORIC PROPERTY THE PROPERTY KNOWN AS "LEATHERMAN BARBER SHOP " AND PROPERTY TO INCLUDE THE FOLLOWING: THE EXTERIOR OF THE BUILDING AND .4 ACRE LOT ON WHICH THE BUILDING IS LOCATED. THE PROPERTY IS OWNED BY JAMES LEATHERMAN AND IS LOCATED AT 210 SOUTH ACADEMY STREET, LINCOLNTON, LINCOLN COUNTY, NORTH CAROLINA.

WHEREAS, all of the prerequisites to the adoption of the this ordinance prescribed in Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina have been met; and

WHEREAS, the Lincoln County Historic Properties Commission has caused to be made and reviewed the report on the historic, architectural, educational and cultural significance of "Leatherman Barber Shop" and property and recommended to the Lincoln County Board of Commissioners designation of "Leatherman Barber Shop"; and

WHEREAS, the North Carolina State Historic Preservation Office has reviewed the historic, architectural, social, educational and cultural significance of "Leatherman Barber Shop" and property; and

WHEREAS, the historical, social, and architectural significance of "Leatherman Barber Shop" and property has been well documented and recognized through its listing as a contributing building in the Lincolnton Commercial Historic District on the National Register of Historic Places; and

WHEREAS, the Members of the Board of Commissioners of Lincoln County, North Carolina have taken into full consideration all statements and information presented at a joint public hearing held with the Lincoln County Historic Properties Commission on the 4<sup>th</sup> day of October, 2010 on the question of designating a property known as "Leatherman Barber Shop" and property as an historic property; and

WHEREAS, "Leatherman Barber Shop" was constructed in 1940, and was added on to in 1942; and

WHEREAS, "Leatherman Barber Shop" has been operated continuously on South Academy Street in downtown Lincolnton as a barber shop for sixty years; and

WHEREAS, “Leatherman Barbershop” has provided an important service to the community; and

WHEREAS, “Leatherman Barber Shop” is socially important to Lincoln County as a location where for sixty years people have built and sustained bonds of fellowship, camaraderie, and social capital; and

WHEREAS, James Leatherman, the current owner, has faithfully maintained “Leatherman Barber Shop” and has thereby made a substantial contribution to the cultural and social richness of Lincoln County; and

WHEREAS, the United States Department of the Interior has “Leatherman Barber Shop” listed as a contributing building in the Lincoln Commercial Historic District on the National Register of Historic Places; and

WHEREAS, the Lincoln County Historic Properties Commission has demonstrated that the property known as “Leatherman Barber Shop” possesses a building having integrity of design, setting, workmanship, materials and/or association; and

WHEREAS, the property known as “Leatherman Barber Shop” is owned by James Leatherman.

NOW, THEREFORE BE IT ORDAINED by the Members of the Board of Commissioners of Lincoln County, North Carolina:

1. The property known as “Leatherman Barber Shop”, including the exterior of the building and .4 acre lot on which the building is located, is hereby designated as a historic property pursuant to Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina. For purposes of description only, the location of said building and property is noted as being situated on a tract of property more specifically described in the description attached to the Resolution.
2. That said designated historic property may be materially altered, removed or demolished only following the issuance of a Certificate of Appropriateness by the Lincoln County Historic Properties Commission. An application for the Certificate of Appropriateness authorizing the demolition of said historic property may be not be denied. However, the effective date of such a Certificate of Appropriateness in accordance with Chapter 160A, Article 19, and amendments thereto and hereinafter adopted.
3. That nothing in this ordinance shall be construed to prevent or delay ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, not to prevent or delay the construction,

reconstruction, alteration, restoration, demolition or removal of any such features when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe condition. Nothing herein shall be construed to prevent the historic property owner from making any use of this historic property not prohibited by other statutes, ordinance or regulations.

4. That a suitable sign may be posted indicating that said property has been designated as an historic property and containing any other appropriate information. If the owner consents, the sign may be placed on said historic property.
5. That the owners and occupants of the historic property known as "Leatherman Barber Shop" be given notice of this ordinance as required by applicable law and that copies of this ordinance be filed and indexed in the office of the Clerk to the Board of Commissioners, Register of Deeds, Planning and Inspections, and the Tax Supervisor, as required by applicable law.
6. That which is designated, as historic property shall be subject to Chapter 160A, Article 19 and any amendments to it and any amendments hereinafter adopted.

Adopted this 4<sup>th</sup> day of October, 2010

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Alex Patton, Chairman

ATTEST:

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Amy S. Atkins, Clerk to the Board

AN ORDINANCE DESIGNATING AS AN HISTORIC PROPERTY THE PROPERTY KNOWN AS "THE JOHN R. MOORE HOUSE" AND PROPERTY TO INCLUDE THE FOLLOWING: THE EXTERIOR OF THE HOUSE AND .28 ACRES OF LAND UPON WHICH ITS IS LOCATED. THE PROPERTY IS OWNED BY ALLEN AND ROSEMARY HUBBARD AND IS LOCATED AT 317 SOUTH CEDAR STREET, LINCOLNTON, LINCOLN COUNTY, NORTH CAROLINA.

WHEREAS, all of the prerequisites to the adoption of the this ordinance prescribed in Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina have been met; and

WHEREAS, the Lincoln County Historic Properties Commission has caused to be made and reviewed the report on the historic, architectural, educational and cultural significance of the “John R. Moore House” and property and recommended to the Lincoln County Board of Commissioners designation of the “John R. Moore House”; and

WHEREAS, the North Carolina State Historic Preservation Office has reviewed the historic, architectural, educational and cultural significance of the “John R. Moore House” and property; and

WHEREAS, the historical and architectural significance of the “John R. Moore House” and property has been well documented; and

WHEREAS, the Members of the Board of Commissioners of Lincoln County, North Carolina have taken into full consideration all statements and information presented at a joint public hearing held with the Lincoln County Historic Properties Commission on the 6<sup>th</sup> day of April, 2009 on the question of designating a property known as the “John R. Moore House” and property as an historic property; and

WHEREAS, the “John R. Moore House” was constructed in ca. 1910; and

WHEREAS, the “John R. Moore House” has local significance as the only building in Lincoln County with a squat Queen Anne style dome, and this dome contributes to the architectural merit of the design; and

WHEREAS, the “John R. Moore House” is significant because it provides a physical and architectural representation of Lincolnton’s population growth from 1900 to 1920, and the new citizens’ acceptance and openness to prevailing eclectic styles of Queen Anne, Colonial Revival, and bungalows; and

WHEREAS, the “John R. Moore House” is associated with men and women who made an impact on Lincolnton and Lincoln County in the areas of transportation, industry, education, and politics/government; and

WHEREAS, the “John R. Moore House” is the best preserved historic building on South Cedar Street, and is rivaled in its architecture and preservation by only one other Victorian style building in Lincolnton, the Daniel E. Rhyne House. The only major change to the house’s exterior occurred during the ownership of James A. Abernethy between 1913 and 1920 when he changed the Colonial Revival style porch and added a porte cochere to resemble those seen on bungalows; and

WHEREAS, the Lincoln County Historic Properties Commission has demonstrated that the property known as the “John R. Moore House” possesses integrity of design, setting, workmanship, materials and/or association; and

WHEREAS, the property known as the “John R. Moore House” is owned by Allen and Rosemary Hubbard.

NOW, THEREFORE BE IT ORDAINED by the Members of the Board of Commissioners of Lincoln County, North Carolina:

7. The property known as the "John Moore House" .28 acres of land upon which it is located is hereby designated as a historic property pursuant to Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina. For purposes of description only, the location of said building and property is noted as being situated on a tract of property more specifically described in the description attached to the Resolution.
8. That said designated historic property may be materially altered, removed or demolished only following the issuance of a Certificate of Appropriateness by the Lincoln County Historic Properties Commission. An application for the Certificate of Appropriateness authorizing the demolition of said historic property may be not be denied. However, the effective date of such a Certificate of Appropriateness in accordance with Chapter 160A, Article 19, and amendments thereto and hereinafter adopted.
9. That nothing in this ordinance shall be construed to prevent or delay ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, not to prevent or delay the construction, reconstruction, alteration, restoration, demolition or removal of any such features when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe condition. Nothing herein shall be construed to prevent the historic property owner from making any use of this historic property not prohibited by other statutes, ordinance or regulations.
10. That a suitable sign may be posted indicating that said property has been designated as an historic property and containing any other appropriate information. If the owner consents, the sign may be placed on said historic property.
11. That the owner and occupant of the historic property known as the "John R. Moore House" be given notice of this ordinance as required by applicable law and that copies of this ordinance be filed and indexed in the office of the Clerk to the Board of Commissioners, Register of Deeds, Building and Land Development and the Tax Supervisor, as required by applicable law.
12. That which is designated, as historic property shall be subject to Chapter 160A, Article 19 and any amendments to it and any amendments hereinafter adopted.

Adopted this 4<sup>th</sup> day of October, 2010



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Alex Patton, Chairman

ATTEST:

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Amy S. Atkins, Clerk to the Board

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to follow the recommendation of the HPC and designate the John Moore House and Leatherman Barber Shop as local historic landmarks.

**Motion to Adopt Ordinance No. 2010-14: An Ordinance Approving an Agreement Granting a Nonexclusive Construction & Demolition Debris Landfill Franchise to Lake Norman Landfill, LLC – George Wood:** Mr. Wood presented the following information.

**ORDINANCE #2010-14 : AN ORDINANCE APPROVING AN AGREEMENT  
GRANTING A 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 Statute §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 "Lake Norman") is currently operating under NC Department of Environment and Natural Resources Permit #5504-CDLF-1999 an approximately 31.3-acre construction and demolition debris landfill (the "Landfill") situated on an approximately 115 acre site 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 Landfill, Inc. 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**, in lieu of host fees, the Board of Commissioners and Lake Norman Landfill, Inc. had agreed to establish a grant program, which has been funded by Lake Norman in accordance with that Franchise Agreement to be used for grants to non-profit organizations operating in and for the benefit of Lincoln County; and

**WHEREAS**, Lake Norman has succeeded to all the interests of Lake Norman Landfill, Inc. in this franchise and the ownership and operation of this landfill; and the ownership of Lake Norman is as shown on the Organizational Chart attached hereto as Exhibit #1; and

**WHEREAS**, the Lincoln County Board of Commissioners and Lake Norman wish to renew this franchise agreement under the terms and conditions set out below;

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

**Section 1.** Pursuant to the Lincoln County Landfill Franchise Ordinance and North Carolina General Statutes §130A-294, §153A-121 and §153A-136, Lake Norman is hereby granted an extension of its nonexclusive franchise, as amended herein, 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. Any change in the permitting process that proposes changes to the size, location, or operation of this landfill must be approved by Lincoln County.

**Section 2.** Nothing contained in this Agreement shall prohibit Lincoln County from operating a landfill for construction and demolition waste or from granting franchises to other entities to operate such landfills.

**Section 3.** The renewal term of the Franchise and Agreement shall be for a ten year term, beginning October 1, 2010 and ending on September 30, 2020.

**Section 4.** Lake Norman agrees to operate the Landfill in accordance with Conditional Use Permit No. 107, as amended, issued by the County to Lake Norman Landfill, Inc. and in compliance with all applicable laws, regulations, rules and governmental orders. Conditional Use Permit No. 107 is attached hereto as Exhibit #2, and incorporated herein as a part of this Franchise Agreement.

**Section 5.** Allied shall furnish the County Manager with a copy of the report required to be filled with the NC Department of Environment and Natural Resources pursuant to NCGS 130A-309.09D(b). Said report shall be furnished to the County Manager within fourteen (14) days of its issuance to those State agencies.

**Section 6.** The population to be served by the Landfill will consist primarily of commercial contractors who specialize in construction, demolition, and land-clearing activities and haulers who haul materials generated from such activities. The area to be served by the landfill will be the area of approximately 100 miles around the Landfill.

**Section 7.** It is anticipated that Lake Norman will accept up to approximately 200,000 tons of waste annually. The waste stream that may be accepted by the Landfill will be composed of all waste that may be accepted at permitted construction and demolition debris landfills by applicable North Carolina laws and regulations.

**Section 8.** The anticipated useful life of the Landfill is approximately twenty (20) years.

**Section 9.** Lake Norman will pay a franchise and host fee to Lincoln County of one dollar (\$1.00) per ton of material disposed of in this landfill, with payments to be made in quarterly installments. The payments shall be made by the 10<sup>th</sup> of the month

following the end of each quarter ending in March, June, September, and December. The payments per ton must correspond to the tonnage in the annual report to DENR referenced above. This one dollar (\$1.00) per ton franchise and host fee shall begin on October 1, 2010. For the month of September, 2010, the franchise fee shall be 1/12 of the fifty-thousand dollar (\$50,000.00) annual franchise fee under the current franchise ordinance and agreement, or four thousand one hundred sixty-six dollars (\$4,166.00).

If the annual tonnage disposed of does not generate a minimum of thirty-five thousand dollars (\$35,000.00) in franchise and host fees, Lake Norman agrees to pay a minimum franchise and host fee of thirty-five thousand dollars (\$35,000.00). Lake Norman's obligation to pay the franchise fee will terminate prior to the termination of this Agreement if the Landfill closes or ceases doing business. Lake Norman will not have an obligation to pay the quarterly payment for any quarter during which no waste is accepted at the Landfill. In the event that the Landfill should close or cease doing business during a quarter, a pro rata share of the quarterly payment will be made no later than the 10<sup>th</sup> day after the last day of the quarter.

The quarterly franchise fee payments will be made out to Lincoln County and remitted to the Lincoln County Finance Director for deposit into the County's General Fund

The County, or an agent acting on its behalf, shall be given full access to customer disposal receipts, weight tickets, and other financial information sufficient to verify the tonnages, prices charged, and the County of origin of each load of waste. Such access shall be granted at any time during normal business hours.

**Section 10.** The renewal application and fee of \$1,000.00 have been received.

**Section 11.** Pursuant to NCGS 153A-136(a)(3) and (4), the schedule of fees for the landfill shall be subject to approval by the Board of Commissioners in a separate resolution. Any subsequent increase in the schedule of fees shall be submitted to the Board of Commissioners at least thirty (30) days prior to the effective date of the rate increase. Approval by the Board of Commissioners shall require only one reading and adoption.

**Section 12.** Lake Norman may assign this Franchise and Agreement or any right accruing under this Franchise and Agreement provided that Lake Norman has given written notice to the County, and the Board of Commissioners has agreed to such assignment. The County shall not unreasonably withhold such approval. In the event of any assignment, the assignee shall receive the rights and assume the liabilities of Lake Norman.

**Section 13.** Should Lake Norman be found in violation of federal or state laws or regulations, or of the terms and conditions of this Franchise and Agreement, and after written notification by the County Manager has not corrected said violations to the issuing agencies' satisfaction within thirty (30) days, Lincoln County may terminate this Franchise and Agreement for non-performance.

**Section 14.** All Notices required in this Franchise and Agreement shall be deemed properly sent if mailed to the following persons:

For Lincoln County:

George Wood  
County Manager  
115 W. Main Street  
Lincolnton, NC 28092

For Allied:

Lake Norman Landfill  
Attn: Brad Green  
7099 Quarry Lane  
Stanley, NC 28164

CMS Landfill V  
Attn: Brad Green  
5105 Morehead Road  
Concord, NC 28027

Either party may change the name and address to whom notices must be sent by sending written notice of such change to the other party.

**Section 15.** This Franchise and Agreement shall be interpreted and enforced under the laws of the State of North Carolina.

**Section 16.** 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 except as follows. If any aspect of the required payments to Lincoln County, or the regulation of the rates by Lincoln County shall be declared invalid, then the parties agree to renegotiate the terms and conditions of this Franchise and Agreement within sixty (60) days of such declaration. If the parties cannot come to a mutual agreement during said negotiations, either party may choose to end this Franchise and Agreement upon written notice at least sixty (60) days prior to such termination.

**Section 17.** 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 retroactively to October 1, 2010.

First Reading and Approval on October 4, 2010.

Second Reading and Approval on October 18, 2010.

This 18th day of October, 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: \_\_\_\_\_  
TITLE: \_\_\_\_\_

\_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to approve Ordinance No. 2010-14: An Ordinance Approving an Agreement Granting a Nonexclusive Construction & Demolition Debris Landfill Franchise to Lake Norman Landfill, LLC.

**Motion to Adopt Resolution No. 2010-51: A Resolution Approving the Fee Schedule for the Lake Norman Landfill, LLC:** Mr. Wood presented the following information.

**RESOLUTION #2010-51 : A RESOLUTION APPROVING THE  
FEE SCHEDULE FOR THE LAKE NORMAN LANDFILL, LLC**

THAT WHEREAS, the Board of Commissioners is in the process of approving a revised non-exclusive franchise with Lake Norman Landfill, LLC for the operation of a Construction and Demolition Landfill in Lincoln County; and

WHEREAS, pursuant to NCGS 153A-136(a)(3) and (4) the schedule of fees for the landfill is subject to approval by the Board of Commissioners, and the Board wishes to approve the schedule of fees that will become effective with the adoption of the revised franchise agreement;

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

Section 1. That the Schedule of Fees for the Lake Norman Landfill, LLC listed below is hereby adopted and approved:

**Schedule of Fees**

Base Rate:	Not to Exceed \$35.00 per Ton
Environmental Recovery Fee	\$10.00 per Ton
Fuel Recovery Fee	As Shown on Attached Fuel Recovery Fee Table
Pass Through Charges:	\$2.00 per ton

Pass Through Charges shall mean special fees, levies, disposal taxes and other such charges which may be imposed on Lake Norman from time to time with respect to the operation of the Landfill by an Local, Federal or State government authority whether on a per ton basis or some other basis, excluding however, permit fees, income taxes, property taxes, and similar taxes.

Section 2. That the said Schedule of Fees approval shall become effective upon approval by both parties of the revised Franchise Agreement, scheduled for second and final reading on October 18, 2010.

Passed and adopted this 4<sup>th</sup> day of October, 2010.

Lincoln County Board of Commissioners

By: _____	Attest: _____
Alex E. Patton, Chairman	Amy S. Atkins, Clerk to the Board



Republic Services Fuel Recovery Fee Table

DOE average price per gallon average	Fuel recovery fee	DOE average price per gallon average	Fuel recovery fee	DOE average price per gallon average	Fuel recovery fee	DOE average price per gallon average	Fuel recovery fee
\$ 1.50	2.21%	\$ 2.50	4.41%	\$ 3.50	6.61%	\$ 4.50	8.80%
\$ 1.51	2.23%	\$ 2.51	4.43%	\$ 3.51	6.63%	\$ 4.51	8.83%
\$ 1.52	2.26%	\$ 2.52	4.45%	\$ 3.52	6.65%	\$ 4.52	8.85%
\$ 1.53	2.28%	\$ 2.53	4.48%	\$ 3.53	6.67%	\$ 4.53	8.87%
\$ 1.54	2.30%	\$ 2.54	4.50%	\$ 3.54	6.69%	\$ 4.54	8.89%
\$ 1.55	2.32%	\$ 2.55	4.52%	\$ 3.55	6.72%	\$ 4.55	8.91%
\$ 1.56	2.34%	\$ 2.56	4.54%	\$ 3.56	6.74%	\$ 4.56	8.94%
\$ 1.57	2.37%	\$ 2.57	4.56%	\$ 3.57	6.76%	\$ 4.57	8.96%
\$ 1.58	2.39%	\$ 2.58	4.59%	\$ 3.58	6.78%	\$ 4.58	8.98%
\$ 1.59	2.41%	\$ 2.59	4.61%	\$ 3.59	6.80%	\$ 4.59	9.00%
\$ 1.60	2.43%	\$ 2.60	4.63%	\$ 3.60	6.83%	\$ 4.60	9.02%
\$ 1.61	2.46%	\$ 2.61	4.65%	\$ 3.61	6.85%	\$ 4.61	9.04%
\$ 1.62	2.48%	\$ 2.62	4.67%	\$ 3.62	6.87%	\$ 4.62	9.07%
\$ 1.63	2.50%	\$ 2.63	4.70%	\$ 3.63	6.89%	\$ 4.63	9.09%
\$ 1.64	2.52%	\$ 2.64	4.72%	\$ 3.64	6.91%	\$ 4.64	9.11%
\$ 1.65	2.54%	\$ 2.65	4.74%	\$ 3.65	6.94%	\$ 4.65	9.13%
\$ 1.66	2.57%	\$ 2.66	4.76%	\$ 3.66	6.96%	\$ 4.66	9.15%
\$ 1.67	2.59%	\$ 2.67	4.78%	\$ 3.67	6.98%	\$ 4.67	9.18%
\$ 1.68	2.61%	\$ 2.68	4.81%	\$ 3.68	7.00%	\$ 4.68	9.20%
\$ 1.69	2.63%	\$ 2.69	4.83%	\$ 3.69	7.02%	\$ 4.69	9.22%
\$ 1.70	2.65%	\$ 2.70	4.85%	\$ 3.70	7.05%	\$ 4.70	9.24%
\$ 1.71	2.67%	\$ 2.71	4.87%	\$ 3.71	7.07%	\$ 4.71	9.26%
\$ 1.72	2.69%	\$ 2.72	4.89%	\$ 3.72	7.09%	\$ 4.72	9.29%
\$ 1.73	2.72%	\$ 2.73	4.92%	\$ 3.73	7.11%	\$ 4.73	9.31%
\$ 1.74	2.74%	\$ 2.74	4.94%	\$ 3.74	7.13%	\$ 4.74	9.33%
\$ 1.75	2.77%	\$ 2.75	4.96%	\$ 3.75	7.16%	\$ 4.75	9.35%
\$ 1.76	2.79%	\$ 2.76	4.98%	\$ 3.76	7.18%	\$ 4.76	9.37%
\$ 1.77	2.81%	\$ 2.77	5.00%	\$ 3.77	7.20%	\$ 4.77	9.40%
\$ 1.78	2.83%	\$ 2.78	5.03%	\$ 3.78	7.22%	\$ 4.78	9.42%
\$ 1.79	2.85%	\$ 2.79	5.05%	\$ 3.79	7.24%	\$ 4.79	9.44%
\$ 1.80	2.87%	\$ 2.80	5.07%	\$ 3.80	7.27%	\$ 4.80	9.46%
\$ 1.81	2.90%	\$ 2.81	5.09%	\$ 3.81	7.29%	\$ 4.81	9.48%
\$ 1.82	2.92%	\$ 2.82	5.11%	\$ 3.82	7.31%	\$ 4.82	9.51%
\$ 1.83	2.94%	\$ 2.83	5.13%	\$ 3.83	7.33%	\$ 4.83	9.53%
\$ 1.84	2.96%	\$ 2.84	5.16%	\$ 3.84	7.35%	\$ 4.84	9.55%
\$ 1.85	2.98%	\$ 2.85	5.18%	\$ 3.85	7.38%	\$ 4.85	9.57%
\$ 1.86	3.01%	\$ 2.86	5.20%	\$ 3.86	7.40%	\$ 4.86	9.59%
\$ 1.87	3.03%	\$ 2.87	5.22%	\$ 3.87	7.42%	\$ 4.87	9.62%
\$ 1.88	3.05%	\$ 2.88	5.24%	\$ 3.88	7.44%	\$ 4.88	9.64%
\$ 1.89	3.07%	\$ 2.89	5.27%	\$ 3.89	7.46%	\$ 4.89	9.66%
\$ 1.90	3.09%	\$ 2.90	5.29%	\$ 3.90	7.49%	\$ 4.90	9.68%
\$ 1.91	3.11%	\$ 2.91	5.31%	\$ 3.91	7.51%	\$ 4.91	9.70%
\$ 1.92	3.14%	\$ 2.92	5.33%	\$ 3.92	7.53%	\$ 4.92	9.73%
\$ 1.93	3.16%	\$ 2.93	5.35%	\$ 3.93	7.55%	\$ 4.93	9.75%
\$ 1.94	3.18%	\$ 2.94	5.38%	\$ 3.94	7.57%	\$ 4.94	9.77%
\$ 1.95	3.20%	\$ 2.95	5.40%	\$ 3.95	7.60%	\$ 4.95	9.79%
\$ 1.96	3.22%	\$ 2.96	5.42%	\$ 3.96	7.62%	\$ 4.96	9.81%
\$ 1.97	3.24%	\$ 2.97	5.44%	\$ 3.97	7.64%	\$ 4.97	9.84%

\$ 1.98	3.27%	\$ 2.98	5.46%	\$ 3.98	7.66%	\$ 4.98	9.86%
\$ 1.99	3.29%	\$ 2.99	5.49%	\$ 3.99	7.68%	\$ 4.99	9.88%
\$ 2.00	3.31%	\$ 3.00	5.51%	\$ 4.00	7.70%	\$ 5.00	9.90%
\$ 2.01	3.33%	\$ 3.01	5.53%	\$ 4.01	7.73%	\$ 5.01	9.92%
\$ 2.02	3.36%	\$ 3.02	5.55%	\$ 4.02	7.75%	\$ 5.02	9.95%
\$ 2.03	3.38%	\$ 3.03	5.57%	\$ 4.03	7.77%	\$ 5.03	9.97%
\$ 2.04	3.40%	\$ 3.04	5.60%	\$ 4.04	7.79%	\$ 5.04	9.99%
\$ 2.05	3.42%	\$ 3.05	5.62%	\$ 4.05	7.81%	\$ 5.05	10.01%
\$ 2.06	3.44%	\$ 3.06	5.64%	\$ 4.06	7.84%	\$ 5.06	10.03%
\$ 2.07	3.47%	\$ 3.07	5.66%	\$ 4.07	7.86%	\$ 5.07	10.06%
\$ 2.08	3.49%	\$ 3.08	5.68%	\$ 4.08	7.88%	\$ 5.08	10.08%
\$ 2.09	3.51%	\$ 3.09	5.71%	\$ 4.09	7.90%	\$ 5.09	10.10%
\$ 2.10	3.53%	\$ 3.10	5.73%	\$ 4.10	7.92%	\$ 5.10	10.12%
\$ 2.11	3.55%	\$ 3.11	5.75%	\$ 4.11	7.95%	\$ 5.11	10.14%
\$ 2.12	3.58%	\$ 3.12	5.77%	\$ 4.12	7.97%	\$ 5.12	10.17%
\$ 2.13	3.60%	\$ 3.13	5.79%	\$ 4.13	7.99%	\$ 5.13	10.19%
\$ 2.14	3.62%	\$ 3.14	5.82%	\$ 4.14	8.01%	\$ 5.14	10.21%
\$ 2.15	3.64%	\$ 3.15	5.84%	\$ 4.15	8.03%	\$ 5.15	10.23%
\$ 2.16	3.66%	\$ 3.16	5.86%	\$ 4.16	8.06%	\$ 5.16	10.25%
\$ 2.17	3.69%	\$ 3.17	5.88%	\$ 4.17	8.08%	\$ 5.17	10.27%
\$ 2.18	3.71%	\$ 3.18	5.90%	\$ 4.18	8.10%	\$ 5.18	10.30%
\$ 2.19	3.73%	\$ 3.19	5.93%	\$ 4.19	8.12%	\$ 5.19	10.32%
\$ 2.20	3.75%	\$ 3.20	5.95%	\$ 4.20	8.14%	\$ 5.20	10.34%
\$ 2.21	3.77%	\$ 3.21	5.97%	\$ 4.21	8.17%	\$ 5.21	10.36%
\$ 2.22	3.80%	\$ 3.22	5.99%	\$ 4.22	8.19%	\$ 5.22	10.38%
\$ 2.23	3.82%	\$ 3.23	6.01%	\$ 4.23	8.21%	\$ 5.23	10.41%
\$ 2.24	3.84%	\$ 3.24	6.04%	\$ 4.24	8.23%	\$ 5.24	10.43%
\$ 2.25	3.86%	\$ 3.25	6.06%	\$ 4.25	8.25%	\$ 5.25	10.45%
\$ 2.26	3.88%	\$ 3.26	6.08%	\$ 4.26	8.28%	\$ 5.26	10.47%
\$ 2.27	3.90%	\$ 3.27	6.10%	\$ 4.27	8.30%	\$ 5.27	10.49%
\$ 2.28	3.93%	\$ 3.28	6.12%	\$ 4.28	8.32%	\$ 5.28	10.52%
\$ 2.29	3.95%	\$ 3.29	6.15%	\$ 4.29	8.34%	\$ 5.29	10.54%
\$ 2.30	3.97%	\$ 3.30	6.17%	\$ 4.30	8.36%	\$ 5.30	10.56%
\$ 2.31	3.99%	\$ 3.31	6.19%	\$ 4.31	8.39%	\$ 5.31	10.58%
\$ 2.32	4.01%	\$ 3.32	6.21%	\$ 4.32	8.41%	\$ 5.32	10.60%
\$ 2.33	4.04%	\$ 3.33	6.23%	\$ 4.33	8.43%	\$ 5.33	10.63%
\$ 2.34	4.06%	\$ 3.34	6.26%	\$ 4.34	8.45%	\$ 5.34	10.65%
\$ 2.35	4.08%	\$ 3.35	6.28%	\$ 4.35	8.47%	\$ 5.35	10.67%
\$ 2.36	4.10%	\$ 3.36	6.30%	\$ 4.36	8.50%	\$ 5.36	10.69%
\$ 2.37	4.12%	\$ 3.37	6.32%	\$ 4.37	8.52%	\$ 5.37	10.71%
\$ 2.38	4.15%	\$ 3.38	6.34%	\$ 4.38	8.54%	\$ 5.38	10.74%
\$ 2.39	4.17%	\$ 3.39	6.37%	\$ 4.39	8.56%	\$ 5.39	10.76%
\$ 2.40	4.19%	\$ 3.40	6.39%	\$ 4.40	8.58%	\$ 5.40	10.78%
\$ 2.41	4.21%	\$ 3.41	6.41%	\$ 4.41	8.61%	\$ 5.41	10.80%
\$ 2.42	4.23%	\$ 3.42	6.43%	\$ 4.42	8.63%	\$ 5.42	10.82%
\$ 2.43	4.26%	\$ 3.43	6.45%	\$ 4.43	8.65%	\$ 5.43	10.85%
\$ 2.44	4.28%	\$ 3.44	6.47%	\$ 4.44	8.67%	\$ 5.44	10.87%
\$ 2.45	4.30%	\$ 3.45	6.50%	\$ 4.45	8.69%	\$ 5.45	10.89%
\$ 2.46	4.32%	\$ 3.46	6.52%	\$ 4.46	8.72%	\$ 5.46	10.91%
\$ 2.47	4.34%	\$ 3.47	6.54%	\$ 4.47	8.74%	\$ 5.47	10.93%
\$ 2.48	4.37%	\$ 3.48	6.56%	\$ 4.48	8.76%	\$ 5.48	10.96%
\$ 2.49	4.39%	\$ 3.49	6.58%	\$ 4.49	8.78%	\$ 5.49	10.98%

**UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adopt Resolution No. 2010-51: A Resolution Approving the Fee Schedule for the Lake Norman Landfill, LLC.

**Other Business:** No other business reported.

**Closed Session:** **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to enter into closed session pursuant to NCGS 143.318.11(a)(3) to consult with legal counsel in order to preserve the attorney client privilege between the attorney and the County.

Chairman Patton stated that no action was taken in closed session.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Alex E. Patton, Chairman  
Board of Commissioners