

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 21, 2011

The Lincoln County Board of County Commissioners met on March 21, 2011 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 Patton – Chairman
George Arena – Vice Chairman
James A. Klein
Carrol D. Mitchem
Carl E. Robinson, Jr.

Others Present:

George A. Wood, County Manager
Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board
Randy Hawkins, Zoning Administrator
Burns Whittaker, Public Work Director
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the March 21, 2011 meeting of the Lincoln County Board of Commissioners to order.

Chairman Patton 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

MARCH 21, 2011

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

- Waived Fees
 - Rotary Auction
 - American Red Cross
- Tax Requests for Refunds - More than \$100
 - February 14 - 27, 2011
- Resolution #2011-14, 15 - 18
- Approval of Minutes – February 7, 2011

Presentation to Eagle Scouts

3. 6:35 PM Public Comments
4. 6:50 PM Planning Board Recommendations – Randy Hawkins
5. 7:00 PM Public Hearing - Carolina Thread Trail
6. 7:15 PM Airlie Industrial Park Access Road, Recommendation for Contract Award - Burns Whittaker
7. 7:25 PM Backflow Prevention - Burns Whittaker
8. 7:35 PM Finance Officers Report - Leon Harmon
9. 7:45 PM County Manager's Report - George Wood
 - Update on Regional Library
10. 7:50 PM County Commissioners' Report
11. 7:50 PM County Attorney's Report - Wesley Deaton
12. 8:00 PM Vacancies/Appointments
13. 8:10 PM Calendar
 - Lincoln County Services Outreach Events
14. 8:15 PM Other Business
 - Register of Deeds Report
15. 8:20 PM Closed Session - Motion to enter closed session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged and 5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Adjourn

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt the agenda as presented.

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

- Waived Fees
- Rotary Auction
- American Red Cross
- Tax Requests for Refunds - More than \$100
- February 14 - 27, 2011

PERIOD COVERED (FEBRUARY 14, 2011-FEBRUARY 27, 2011)

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
Hill, Donald M.	2010	CITY	0076824	237.87	Billed also as tagged vehicle
TOTAL				\$ 237.87	

- Resolution #2011-14, 15-18

**A RESOLUTION
IN RECOGNITION AND APPRECIATION
OF
JUDY B. CAUDILL**

WHEREAS, Judy B. Caudill began her career with Lincoln County on October 6, 1969, serving as Elections Supervisor and Director of Elections for more than 40 years; and

WHEREAS, Mrs. Caudill was a part of North Carolina's first graduating class of Election Officials in the State Board of Elections Certification Program; and

WHEREAS, Mrs. Caudill received the Award of Excellence in July 2001 from the North Carolina Board of Elections; and

WHEREAS, as part of her service to Lincoln County, Mrs. Caudill was appointed by North Carolina's Speaker of the House of Representatives in October, 1999 to serve on the North Carolina Election Laws Study Commission; and

WHEREAS, Mrs. Caudill received her national certification as a Certified Elections/Registration Administrator, (CERA) from the Board of Directors of The Elections Center; and

WHEREAS, Mrs. Caudill has served the citizens of Lincoln County with a high level of ethics and commitment, and has provided professional administration in the Board of Elections Office; and

WHEREAS, Mrs. Caudill has earned the admiration, respect and friendship of those with whom she has worked and her elections official colleagues across the State; and

WHEREAS, Mrs. Caudill has announced she will retire as Director of Elections for Lincoln County effective March 31, 2011;

NOW THEREFORE, BE IT RESOLVED by the Lincoln County Board of Commissioners upon her retirement, that we do hereby consider it a distinct honor to recognize Judy B. Caudill for her outstanding service, dedication, and many contributions to Lincoln County; and to extend to her our congratulations, appreciation, and gratitude on behalf of the citizens of Lincoln County;

BE IT FURTHER RESOLVED that the Lincoln County Board of Commissioners do hereby extend to Judy B. Caudill best wishes for many years of good health and happiness during her retirement.

Passed and adopted this the 21st day of March 2011.

Alex E. Patton, Chairman
Lincoln County Board of Commissioners

Amy Atkins
Clerk to the Board

RESOLUTION

WHEREAS, on behalf of all of the Citizens of Lincoln County we, the Board of Commissioners of Lincoln County, wish to recognize the attainment of high honor by young Citizens of Lincoln County and,

WHEREAS, Lewis Turbyfill has demonstrated strong leadership abilities and has exhibited a strong sense of duty, honor and patriotism making him a clear example of the best qualities of American youth and,

WHEREAS, Lewis Turbyfill has completed the arduous and demanding requirements necessary to be awarded the rank of **EAGLE SCOUT**, the highest honor given by the Boy Scouts of America,

BE IT RESOLVED, and it hereby is that the Lincoln County Board of Commissioners recognize and congratulate Lewis Turbyfill upon his attainment of the rank of **EAGLE SCOUT**.

Adopted this 21st day of March 2011.

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Adopted this 21st day of March 2011.

- Approval of Minutes – February 7, 2011

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/additional speakers, Chairman Patton declared the public comments section closed.

Planning Board Recommendations – Randy Hawkins: Randy Hawkins presented the following information:

PD #2011-1 Beacon Management Corp., applicant (Parcel ID# 83152) A request to rezone 10.1 acres from B-N (Neighborhood Business), B-G (General Business) and R-SF (Residential Single-Family) to PD-R (Planned Development Residential) to permit the development of a 74-unit apartment complex for ages 55 and older in accordance with a master plan. The property is located on the east side of Hwy. 16 about 1,000 feet north of Hagers Hollow Drive in Catawba Springs Township.

The applicant withdrew the application due to not receiving funding for the project.

CUP #299 Cindy Kincaid, applicant (Parcel ID# 10425) A request for a conditional use permit to

operate a riding stable and hold horse shows in the R-R (Rural Residential) district. The 20-acre parcel is located at 3377 Flay Sain Road, on the east side of Flay Sain Road about 300 feet north of the Gaston County line, in North Brook Township. (This request was originally heard on Nov. 1, 2010, and tabled by the Planning Board. The applicant amended the request on March 7, 2011, withdrawing the proposal to hold horse shows.)

The Planning Board voted 9-0 to recommend approval of the amended request, with the condition that the number of horses boarded, not including the applicant's own horses, be limited to 10.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve CUP #299 in addition to the conditions submitted by the Planning Board.

ZMA #582 Lincoln Charter School, applicant (Parcel ID# 90005) A request to rezone 1.9 acres from B-N (Neighborhood Business) to R-SF (Residential Single-Family). The property is located about 250 feet west of N.C. 16 Business and 500 feet south of Galway Lane in Catawba Springs Township.

(This request was originally heard on Dec. 7, 2010, and was tabled by the Planning Board.) The Planning Board voted 9-0 to recommend approval.

Chairman Patton asked why this was tabled in December and still came with no conditions.

Randy Hawkins stated that it was originally tabled to get information from the NCDOT on what traffic improvements would be required. It took a few months to get that. With a straight rezoning, no conditions can be placed.

Commissioner Robinson asked what traffic improvements will be made.

Andrew Bryant stated that what NCDOT has indicated to staff is that there will be an additional 400 feet of northbound storage, which will bring it to 550 feet of storage with tapers. This will take the center turn lane from Galway to Hess at Smithstone.

Commissioner Arena asked if this is in writing. Mr. Bryant stated that it will be not be in writing until the driveway permit is issued.

Commissioner Robinson asked what this will do to the residents of Smithstone who are already having a problem from the Hess Station. Mr. Bryant stated that this area should be protected and there will be a prohibited area of hashing. The turnlane is designed over capacity at this point.

Commissioner Arena asked if there were any discussions concerning a traffic light at this location. Mr. Bryant responded that at this point, the traffic light would not be warranted

according to the Manual of Uniform Traffic Control Devices. To have a traffic light installed, three of the warrants would have to be met and only the a.m. peak hour warrant at this time would trigger.

Commissioner Robinson asked the additional amount of cars that will be at this site. Mr. Bryant said it will be the amount of cars at the other site, roughly 230.

George Wood asked how to avoid the situation that happened years ago. Mr. Bryant stated that this is part of the engineering work being done, right of way determinations are being made. The mini-storage facility is not included. Mr. Bryant stated that the Board could wait to render a decision until the engineering is finalized and a driveway permit issued or not approve the building permit or temporary driveway permit.

Mr. Wood stated that he recommends tabling this request until receiving in writing from DOT that they will not issue a driveway permit until the issue of whether they have adequate right of way to install these lanes is determined.

Commissioner Arena said he did some checking and DOT put a light at Southlake Christian Academy and East Lincoln Middle School that did not meet the warrants. He said maybe the County can implore them to go back and understand what happened at those schools. He said a light should be seriously looked at for this situation.

UPON MOTION by Commissioner Arena, the Board voted unanimously to table to hear from DOT and ask staff for a status report.

Commissioner Arena said already a mess and with all the development it is getting worse. He asked for the Board's support to have staff look at a specific overlay on specific parts of Highway 16 over the next 30 to 60 days. It was his recommendation to go from S Little Egypt Road somewhere north of the Campground Road intersection. It was the consensus of the Board to move forward.

Public Hearing – Carolina Thread Trail: Randi Gates, Community Coordinator for the Carolina Thread Trail in Lincoln County, said the Carolina Thread Trail was originally adopted without maps in 2009. She said they would like the time to revisit the Carolina Thread Trail with maps, which remove the Reepsville Road area.

Chairman Patton opened the public hearing.

Craig Wyant stated that he would like to go on record in support of the Carolina Thread Trail.

Bud Hawkins stated that he has been a resident of Lincoln County 19 years. He said he would like to show his support for this project as he would love to be able to ride his bike on these trails and would like his grandchildren to be able to enjoy them in the future.

Erma Deen Hoyle stated that connectivity is a major component in grants for public recreation development.

Glenn Fiscus stated that Burton Creek Conservancy could tie into the Carolina Thread Trail.

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

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Resolution #2011-19 and associated map.

Airlie Industrial Park Access Road, Recommendation for Contract Award – Burns Whittaker: Burns Whittaker presented the following information:

Bids were opened on March 15 for the Access Road into Airlie Park. Sixteen bids were received ranging from \$608,509.88 to \$906,743. The low bidder was Eagle Wood Construction from Denver, NC. Mr. Whittaker recommended award of the bid to Eagle Wood for the Base Bid plus Additive Alternate item in the amount of **\$608,509.88**.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve Airlie Industrial Park Access Road Recommendation for Contract Award as presented by Mr. Whittaker and award the bid to Eagle Wood for the Base Bid plus Additive Alternate item in the amount of \$608,509.88.

Backflow Prevention – Burns Whittaker: Burns Whittaker presented the following information.

Mr. Whittaker stated that he's neutral on this, but needs direction from the Board. He said what we are talking about is residential irrigation meters and there are approximately 900 in the County, most of them are in the sewer district. The new law does require separate irrigation meters for any irrigation system. In the future, they will not allow combined meters. The 900 does not include irrigation systems that may have been installed off of a primary water meter. He said the current regulation requires a double check valve to be installed on those units and for that valve to be inspected annually. He said that was in accordance with the original backflow guidelines that were put into place by DENR in 2001. They broke out the irrigation systems into two categories, irrigation systems that do not have a booster pump or do not include chemical injection in them were classified as moderate hazard and required a double check valve. Irrigation systems that did include a separate pump or chemical injection system were classified as severe hazard, which requires a Reduced Pressure Zone (RPZ) Assembly which is a higher level of protection and significantly higher cost. Mr. Whittaker said he is not aware of any like this.

In looking into this, if we enforce the current County Ordinance, we would require each irrigation system to have their backflow device to be checked annually by a certified inspector. This would run anywhere from \$35 to \$100. At the Board's request, he

looked at what they could do to alleviate some cost burden to the homeowner. If they follow the 2010 guidelines of DENR, which took all irrigation meters and put them into one category, high hazard, they would have to do two things. 1) Every irrigation homeowner would have to replace his double check valve with a RPZ. The cost of just the valve and the protective box is about \$200 plus the labor to put it in. The RPZ are normally installed above ground and must be covered with a rather obtrusive looking enclosure to prevent freezing. He estimated the cost to replace the DCVA with an RPZ to be \$500 to \$1000.

Mr. Whittaker stated that he has contacted our neighboring communities and most are currently in the same situation. He said with the exception of one community, he found none requiring the immediate replacement of the DCVA with the RPZ.

Mr. Whittaker presented the following recommendation:

- 1) Continue to follow the current ordinance as far as hazard condition of lawn sprinklers, i.e. classify only those with pumps or chemical injection as high hazard and the remainder as moderate hazard.
- 2) Require that all high hazard devices be RPZ and that they be tested and certified annually. Those installations which are currently DCVAs should be allowed to remain until such time as the DCVA fails the annual certification at which time the owner will be required to replace the DCVA with an RPZ.
- 3) Moderate hazard devices will require testing and certification every 3 years. Stagger the testing periods by requiring approximately 1/3 of the devices to be tested each year beginning as below. Public Works will determine how the testing schedule is developed.

Chairman Patton asked if this proposal has been looked at by DENR. Mr. Whittaker stated that he does not think they have seen the actual proposal, but they have discussed this with them. Britt Setzer at DENR said was that this is guidelines and indicated that it is the county's call.

Commissioner Mitchem asked if there was a grace period of 10 years to get this in order. Mr. Whittaker said he keeps hearing that number, but has not seen that anywhere.

Commissioner Mitchem asked the difference between law and guideline. Mr. Whittaker stated that he and Mr. Deaton discussed this today. He said it may be beneficial for counsel to look over this more closely before approval.

Commissioner Mitchem asked that this come back before the Board.

Mr. Wood stated that if it is determined that what Burns is recommending meets the requirements, they will come back with a proposed ordinance at the next meeting.

Commissioner Robinson asked if it is known how many failures there are in industrial and commercial. Mr. Whittaker said he would have to get that information.

Commissioner Mitchem if he was satisfied with the recommendations he made. Mr. Whittaker said he is.

A MOTION by Commissioner Robinson to turn it over to counsel and if they agree, they will bring the Ordinance back to the next meeting.

Commissioner Mitchem asked if there would be an Ordinance that would come back before the Board. Chairman Patton said if Counsel deems that everything is appropriate, an Ordinance would come back for the Board's approval.

Burns Whittaker said the Ordinance will be brought back at the next meeting and will either be changed to follow state guidelines completely or something different. Additional changes can be made after it is approved.

Commissioner Mitchem said everything is about abiding by the rules of the State, and he thinks they should here too.

VOTE: Unanimously approved.

Finance Officers Report – Leon Harmon: Leon Harmon presented the Finance Officer's Report.

County Manager's Report – George Wood:

- Update on Regional Library

Mr. Wood gave an update on the Regional Library. He recommended appointing a Committee, comprised of Jennifer Sackett, himself, Chairman of the Library Board, and two Commissioners, to look into this and bring a recommendation back. He said they would like to try and get an extension from the state for 90 to 120 days to have adequate time to study this.

Chairman Patton asked Commissioners Robinson and Arena to serve.

County Attorney's Report – Wesley Deaton: Wesley Deaton gave the County Attorney's Report.

Vacancies/Appointments: Commissioner Robinson presented the following vacancies and appointments:

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the following appointments:

Vacancies:

- Nursing and Adult Home Community Advisory Committee
- Board of Adjustment - Alternate
- Recreation Commission

- Catawba Springs Township
- Ironton Township
- Pathways (1 seat)
- Lincoln County Community Friends
- Lincoln Natural Resources
- CEDC

Appointments:

LNRC

- Gail Budd 3 year term ending 6/30/13

Nursing and Adult Care Home Advisory Committee

- Barry Schrum one year ending 3/31/12

JCPC

- Julie Shrum 1/1/11 – 12/31/13

Pathways

- Kristie Robertson 1/1/11 – 12/31/14

Board of Equalization and Review Alternate

- Steve Banner 1/1/11 – 12/31/13
- Dean Lutz 1/1/11 – 12/31/13

Board of Adjustment

- Giles Martin – Term 0: 04/01/10 – 03/31/13
- Beverly Moore - Term 1: 1/1/11 – 12/31/14

Calendar: Chairman Patton presented the March 2011 calendar.

Other Business:

- Discussion of Fire Tax

Commissioner Klein stated that the Fire Departments should come forward with several increments of their budget. He said we should at least ask them to tell us their revenue neutral rate.

Closed Session: **UPON MOTION** by Commissioner Arena, the Board voted unanimously to enter into closed session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, and 5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease and (6 To consider the qualifications, competence, performance, character, fitness, conditions of

appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

The Board returned to open session and Chairman Patton announced that no action was taken in closed session.

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve the County Manager and County Attorney to enter into a contract with Eikotter and Mr. Littlejohn for the purchase of the communications tower.

Chairman Patton stated that Lincolnton Optimist Park has been in operation a number of years. He said the County currently gives them \$17,500 per year and have for a number of years. He said there is a unique opportunity to take that money and purchase the park, to have an operational ballpark of 43 acres for the total price of \$128,000. This includes ballfields with lights.

UPON MOTION by Commissioner Arena, the Board voted 4-1 (Klein against) to allow the County Manager and County Attorney to enter into discussions and to discuss and commit to a purchase agreement with the Optimist Club in Lincolnton as described in the proposal.

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners