

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 7, 2013

The Lincoln County Board of County Commissioners met October 7, 2013 at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman
Carl E. Robinson, Jr., Vice Chair
James A. Klein
Carrol D. Mitchem

Commissioner Absent:

Cecelia A. Martin

Others Present:

W. Tracy Jackson, County Manager
Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board

Planning Board Members:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Todd Burgin
John Dancoff
Dr. Crystal Mitchem
Brian Rabalais

Call to Order: Chairman Patton called the October 7, 2013 meeting of the Lincoln County Board of Commissioners to order. Commissioner Robinson 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 Meeting
Monday, October 7, 2013
6:30 PM

James W. Warren Citizens Center

115 West Main Street
Lincolnton, North Carolina

Call to Order

Invocation - Commissioner Robinson

Pledge of Allegiance

1. Adoption of Agenda

2. Consent Agenda

- Tax Requests for Releases - Over \$100
 - August 16 - September 15, 2013
- Minutes for Approval
- Special Events Fee Waiver Request
 - Fire and Life Safety Fair
 - Boger City Optimist
- CDBG Monthly Status Update
- Capital Project Ordinance Amendment #1: Borghetti Utility Line Installation Project
- Declaration of Surplus Vehicles for Sheriff's Office
- Sponsored Group Status
 - YMCA Prayer Breakfast
- FY 14 North Carolina Department of Insurance, Division of SHIIP Grant and Contract
- Budget Ordinance Amendment #1
- Records Retention Schedule Amendments
 - County Management
 - Register of Deeds
 - Tax Administration
- Grant Approval for Sheriff's Office

3. Zoning Public Hearings - Randy Hawkins

CZ #2013-3 Jeffrey Brewer, applicant (Parcel ID# 57948 and 55816) A request to rezone 1.8 acres from Michael Berkowitz-N (Neighborhood Business) to CZ I-G (Conditional Zoning General Industrial) to permit an existing auto body shop to be expanded. The property is located at 1634 N. NC 16 Hwy., on the east side of N.C. 16 Business about 1,200 feet north of Smith Harbour Drive, in Catawba Springs Township.

CUP #326 American Tower Corp., applicant (Parcel ID# 25789) A request for a conditional use permit to erect a 225-foot wireless telecommunications tower in the R-T (Transitional Residential) district. The proposed site is on an 11-acre tract located at 1875 Buffalo Shoals Road, on the west side of Buffalo Shoals Road at Sandy Park Road, in Ironton Township.

CUP #330 Kenneth Tucker, applicant (Parcel ID# 33812) A request for a conditional use permit to allow a self-storage facility in the Eastern Lincoln Development District (ELDD) in the I-G (General Industrial) district. The 1.0-acre parcel is located about 300 feet west of N.C. 16 Business on the north side of Sugar Wood Lane in Catawba Springs Township.

WSCUP #16 C4 Development, LLC, applicant (Parcel ID# 34062) A request for a conditional use permit to allow the use of the high-density option in the WS-IV Protected Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop a 1.6-acre lot with a 8,320-square-foot retail store, driveways and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. The property is located on the north side of N.C. 16

Business about 850 west of Forest Hills Drive in Catawba Springs Township.

4. Public Hearing - Industrial Development Incentive Grant for Existing Industry and motion to adopt Resolution #2013-30: Resolution to Adopt Economic Incentive Grant Agreement- Kara Brown
5. Public Hearing - Industrial Development Incentive Grant for Existing Industry and motion to adopt Resolution #2013-31: Resolution to Adopt Economic Incentive Grant Agreement- Kara Brown
6. Request for Purple Heart County Designation and motion to Approve Proclamation in Honor of the Military Order of the Purple Heart - Ronald Wade
7. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
8. Motion to Approve the Professional Service Agreement between Lincoln County and CBSA Architects for architectural and design services on the renovation of Oaklawn School -Randy Williams
9. Motion to approve Resolution #2013-32: Resolution (1) Authorizing Pursuing an Installment Refinancing With First-Citizens Bank & Trust Company, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to that Refinancing - Deanna Rios
10. Motion to approve the purchase of a 2013 John Deere 5085E Utility Tractor and a John Deere 553 Standard Loader attachment from James River Equipment, located in Shelby, NC, in the amount of \$41,856.77, utilizing State contract prices - Don Chamblee
11. Motion to approve Dorsett Technologies, Inc. as a sole source provider for SCADA equipment for the water system as well as the proposal in the amount of \$48,817.00 with funding from the water and sewer operating fund - Don Chamblee
12. Motion to execute a contract with W.K. Dickson & Co. for \$49,600.00 for engineering services - Don Chamblee
13. Motion to approve Revised Capital Project Ordinance Related to Capital Improvements for the Denver Global Products, Inc. (Category A Public Infrastructure) - Martha Lide
14. Motion to approve the grant agreement with the North Carolina Department of Commerce for a grant in the amount of \$511,052 for Water and Sewer Improvements needed for a new manufacturing facility to be constructed by Denver Global Products, Inc. - Martha Lide
15. Motion to Award Purchase and Installation of Financial, Human Resources, and Utility Software to Tyler Technologies – Deanna Rios
16. Closed Session Pursuant to NCGS § 143-318.11. Closed sessions.(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.
17. Other Business

Adjourn

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

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

- Tax Requests for Releases - Over \$100
- August 16 - September 15, 2013
- Minutes for Approval

- Special Events Fee Waiver Request
 - Fire and Life Safety Fair
 - Boger City Optimist
- CDBG Monthly Status Update
- Capital Project Ordinance Amendment #1: Borghetti Utility Line Installation Project
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- Grant Approval for Sheriff's Office

Items listed in the Consent Agenda are on file in the office of the Clerk to the Board and are hereby made a part of these minutes as though fully set forth herein.

Zoning Public Hearings: Randy Hawkins presented the following:

CZ #2013-3 Jeffrey Brewer, applicant (Parcel ID# 57948 and 55816)

The applicant is requesting the rezoning of 1.8 acres from Michael Berkowitz-N (Neighborhood Business) to CZ I-G (Conditional Zoning General Industrial) to permit an auto body shop to be expanded. The auto body shop on this property is a nonconforming use. Under the Unified Development Ordinance, a nonconforming use cannot be enlarged. An auto body shop is classified as vehicle repair, which is a permitted use in the I-G district and a conditional use in the Eastern Lincoln Development District. If this rezoning request is approved, the use of the property would be subject to the approved plan and any conditions mutually approved by the county and the applicant.

Site Area & Description

This property is located at 1634 N. NC 16 Hwy., on the east side of N.C. 16 Business about 1,200 feet north of Smith Harbour Drive. It is adjoined by property zoned B-N, IG and PD-MU (Planned Development Mixed Use). Land uses in this area include business, industrial, institutional and residential. The NC 16 Corridor Vision Plan recommends concentrating commercial development in three identified community centers and in nodes around main intersections. This property is not located in one of those areas.

Chairman Patton opened the public hearing concerning CZ #2013-3 – Jeffrey Brewer, applicant.

Jeffrey Brewer, applicant, stated that he is here to answer any questions about their request for rezoning. He said Mr. Curtis is the current owner, they have an escrow and a contract to purchase the property from Mr. Curtis. They have been his tenant for seven

years and wish to purchase the property and expand it. A condition of their purchasing the property is that the rezoning is approved.

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

The following quasi judicial cases are transcribed verbatim:

CUP #326 American Tower Corp., applicant (Parcel ID# 25789):

The applicant is requesting a conditional use permit and in this case the application has been amended today instead of a 225-foot tower, they are proposing a 195-foot tower with a lightning rod that extends 4 feet above that for a total height of 199 feet and instead of a lattice tower, would be a monopole tower. The applicant has some new drawings to hand out concerning that. The application has been amended.

The 11-acre parcel is located at 1875 Buffalo Shoals Road, on the west side of Buffalo Shoals Road at Sandy Park Road, in Ironton Township. It is adjoined by property zoned R-T and R-SF (Residential Single-Family). Land uses in this area are mainly residential.

The Lincoln County Land Use Plan designates this area as Suburban Residential.

ORDINANCE STANDARDS

Wireless telecommunications facilities are classified under civic uses. The Unified Development Ordinance sets the following standards for such facilities:

§4.3.7 Wireless Telecommunication Facility

A. The proposed tower, antenna or accessory structure and equipment will be placed in a location and in a manner which will minimize the visual impact on the surrounding area. Accessory structures and equipment must meet all applicable standards of this UDO.

B Approval for a proposed tower within a radius of 10,500 feet from an existing tower or other suitable structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a co-location agreement could not be obtained at a reasonable market rate and in a timely manner.

C. Minimum tower setbacks shall be as follows:

1. From all lot lines and public right-of-ways, a distance equal to the tower's fall zone, as certified by a licensed professional engineer in the State of North Carolina, plus 20 feet; and

2. From any residential use, a distance of its height plus 50 feet, unless the owner of the use waives this requirement by a notarized affidavit.

D. The proposed tower must be designed to accommodate additional antennae equal in number to applicant's present and future requirements.

E. Unless otherwise restricted, the height of a tower is limited per §2.2.1, Use Table. Antennae or equipment mounted on a building must meet the height requirements of §2.4.

F. A tower must not be illuminated or contain any lighting unless otherwise required by State or Federal regulations.

G. The color of a tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings.

H. No commercial signs or advertising shall be allowed on any tower, antennae, accessory structure or equipment.

I. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than 20 feet and the new or modified tower meets all of the above requirements except for the setback provisions.

J. Any tower, antennae, accessory structure or equipment that is not used for communication purposes for more than 120 days shall be considered as abandoned and shall be removed by the owner within 60 days. The County shall require financial guarantees in accordance with §5.10 to guarantee removal of abandoned equipment in compliance with the requirements of this subsection.

K. Telecommunication/transmission towers shall not be constructed unless the tower owner has general liability coverage of at least \$1,000,000. The owner of the tower shall provide the County with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the County 30 days prior to the cancellation, modification or failure to renew the insurance coverage required. Lapse of this insurance shall be deemed by the

The applicant has submitted information and staff has determined that all of the standards would be met by the proposal.

Chairman Patton asked if there were any questions for Mr. Hawkins at this time.

Chairman Patton declared the public hearing open on CUP #326 – American Tower Corp.

Don Broome: My name is Don Broome and I live on 1176 Ronald Broome Lane. I'm here to speak out about this proposed tower site location. I was looking at the UDO Ordinance and if I may I have a couple sections I needed clarification on. The first section, I believe page 2, it was saying that this proposed tower, antennae, or accessory structure and equipment will be placed in a location and in a manner which will minimize the visual impact on the surrounding area. I just don't see any way that this tower can be installed at this location and have anywhere near minimal visual impact. I can go into the reasons why, I have several concerns here. The other question I have is in paragraph 2, which says approval for proposed tower within a radius of 10,500 feet from an existing tower or suitable structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet the applicant's structural specifications or technical design requirements or that a co-location agreement could not be obtained at a reasonable market rate or in a timely manner. The reason I brought that paragraph up is there is a tower site that is 1.3 miles off of this same road of this proposed location. That is less than the 10,500 feet mentioned in this paragraph. It is located on 1584 Emorywood Lane, so it's off Buffalo Shoals Road, and 1.3 miles from the proposed location they have now that they are proposing this tower go at. My question is why can they not use this tower, this tower is 300' tall, anything below 290' is available. They are talking about putting up a tower that is 195', this tower gives them additional height, they can go from 195' to 290' and it's only 1.3 miles up the road. According to this paragraph in this ordinance here, I don't understand why they are not being forced to use this tower instead of putting in a proposal to build a new tower 1.3 miles off the same road and there is space on that tower. Like I said, they will not only have, they mention wanting to

cover Car Farm Road and Buffalo Shoals Road, this tower site is .5 mile from Car Farm Road and provides excellent coverage for Car Farm Road. They have all those different height levels and variations they can use, they can adjust their equipment, they can use different types of antennae, they can adjust the downtilt, put in amplifiers. They can do all these adjustments and get the coverage and signal they need in that area. I just want to know why that is, if that's the case, it looks like they would not be able to put this tower up in this proposed area, that is too close. I've got other concerns I can go into if you'd like me to go ahead into those. The other concerns is the community itself – this is a nice, clean, quiet community. Most of the families have been in this area for 50+ years. We've got a couple houses in this area that are over 100+ years old and this property has been in my family for approximately 75 years. I've got five family members that live out on this property and as far as the location, the reason I say it's not suitable is because there is not enough land at this location. There is enough land for the tower site, because most compounds are 100 x 100 foot. This is just an open field, it's not a wooded area, so the tower can't be hidden. It's in an open field and it's got houses completely surrounding it. I've never seen this of all the tower sites I've been to and I've been to over 300 tower sites. That's conservative, I've probably been to about 400 to 500 tower sites. I've been in the industry for 25 years and I've never seen a tower site stuck in the middle of a community with this many houses completely encircling the tower site that's got houses on all four sides, houses on three of the four corners and it's not only got that many houses around the tower but it's got two that are within 300 feet of the tower. That's highly unusual and it's just rare, I haven't seen it. The majority of the sites, and I've got the Lincoln County sites listed here, there's about twelve sites listed here in Lincoln County and I've got the actual street addresses of them, they are all in vacant fields, wooded area, or pasture. There's a couple that have one or two houses, but nothing like this – not house completely encircling it our houses this close and I've got the actual addresses here and these are just in Lincoln County. There's 12 sites there and then I've got another list here, printed out, of sites that I can go over as well. It's just most of the sites go in open fields, they go in pastures, they go beside businesses, they go in parking lots, they go in storage facilities, they go in all those areas and those are suitable locations, this is not a suitable location, this is right in the middle of a housing community that's been there, like I said, for 50 plus years. There are so many suitable locations that this site could go at, I just don't understand why they are even considering putting it here. I mean it just surprised me that they would even consider it and on top of that we've got all the concerns about a lot of these sites have problems with vultures and buzzards that roost on the tower sites and make a mess, with an unbelievable smell in the heat of the summer. You have got a couple houses that are 300 feet from this tower. The other thing is most of the companies, the larger companies that go on these tower sites use fixed diesel generators, most of those generators hold 250 gallons of diesel fuel, so you have EPA issues with the possibility of diesel spills. All of our houses out there are on well, so we've got the possibility of contamination of ground water, so that's an extreme concern we have. The other concerns are the noise, the equipment makes noise with AC units kicking on and off during the summer. The traffic, this is a quiet community and there will be traffic coming in and out of here 24/7, day and night. They do most of their maintenance work in the middle of the night from 11 p.m. to 5 a.m. The other thing we are really concerned about is copper thefts. Copper thefts at

telecommunication tower sites is an epidemic. It's been going on for years, it's been going on, and will keep going on. The majority of the sites I've been to have been hit for copper theft. Many of them multiple times, they will get hit for copper theft. The companies will go out there and replace the equipment and three to six months later, they get hit again, it's just an ongoing cycle, it's continuous. So we are extremely concerned about the criminal element that this will introduce into our housing community. So that's a big concern, I've got plenty of articles here stating that it's an epidemic from the national insurance crime bureau, the FBI, all kinds of documents here explaining how bad it is and it will continue to get worse. Copper right now is about \$3.50 per pound so that's going to continue to get worse and with that being a housing development and having kids, we are extremely concerned that you never know who you might run into going in and out of your house. This site is supposed to use the same road that we use to access all of our houses and we've got five houses off this road. So we are concerned that we could run into these people going or out and who knows what frame of mind they are in. But the bottom line is this is an epidemic that happens constantly, I see it all the time and it's going to continue to happen, they have no way of fixing it, they have tried. They can't fix it. So that's a big concern that we have about the copper thefts plus these houses are so close, a couple within 300 feet, if they go out there and steal copper and don't get enough copper or they decide they want something else, they could go to surrounding houses and start doing theft and vandalism at the houses. We are really extremely concerned about that as well. And I don't want to take up too much time, I know there are other people here to speak, but these tower companies they do have a lot of options. I know they do their search ring, they will send a team out there and they will drive and do an RS study and search ring, and they will say this will be a good spot for our tower. But they are like everybody else, they have to be flexible and have options, it's just a matter of whether they will use it or not. The reason I say that, in closing, is because I've got a list here of over 100 sites, and I have personally been to every one of these sites, a lot of them many times. Ninety to 95 percent of these sites are suitable locations— they are in the pasture, open fields, wooded areas, not in the middle of a housing community. All those sites didn't go into those locations by accident, it's because the local community was taken into consideration and we would like to get that same consideration.

Krystal Broyhill: My name is Krystal Broyhill and my address is 5268 Hall Street, Conover, NC. I was asked by the property owners, Michael Sothers – adjoining property owner - to appraise his property and determine the effect of the cell phone tower on his property value. I have not appraised the property because right now, I don't have the information. This proposed tower is located in an extremely unusual situation and I have not seen another cell tower in that situation so I have not been able to come up with an analysis to complete this appraisal. I ended up in my study, getting ready for tonight, with more questions than answers. Part of the appraisal process is determining external obsolescence, and in this case or in all cases with cell towers, the effect on property values really hasn't been studied, but the radiation from the cell towers is a big concern. I have several studies, and I don't pretend to be a scientist, but I would ask that before you make a decision that you do a little research on your own. I know the cell tower companies have their reports, but I would ask that you read or at least read the summaries, 1500 page

report, the 2012 bionitive report. I also have another report, cell tower radiation, that one quote from it says that over 100 physicians and scientists at Harvard and Boston University's School of Public Health, have called cell towers a radiation hazard and 33 physicians from seven countries have declared cell towers a public health emergency. The only thing I say is read these things yourself before making a decision. Secondly, I have conducted studies on soil contamination and the health effects on that and the effects on the property values. I understand that right now there are 13 cell phone tower contamination sites in Lincoln County. Again, I would say do your own research and check with the EPA on that. This is out of the Mooresville office and the information is there. These underground storage tanks do eventually fail and I would like to know what measures are being taken to prevent the contamination from the underground tanks and what is the potential threat for the future. Back to the appraisal process, I do a lot of review work for banks and I know that appraisers are not considering cell towers because it is too difficult and too time consuming to determine those effects on the property values. I do know that houses sell around cell towers, but the information is not out there for the general public, they are not aware of the hazards, they do not know the radiation levels and I would suggest that the cell towers be required to monitor the radiation levels and make it known to the public so they can make informed decisions before buying.

Michael Southers: I'm Michael Southers and live at 1217 Ronald Broome Lane. The reason we are here, we are the direct property owners adjacent to this property site. It's an 11 acre tract. Right behind the tract is where our property is. I walk out my back door and it's 200 feet from my back door. If you are sitting out there on your deck or at our pool, it's sitting right here in front of you. If we go to sell this thing, we've already got the papers from the bank, they use these things as considered a nuisance. It does affect an FHA loan if you go to either borrow or try to sell, all that comes into play with people trying to buy your property or you want to refinance. With this being said, if you put this thing in here, we are the ones going to feel the effects. All the neighbors in the community will be affected, but we are the people directly with it. We are in the line of sight from it and are here to stop it. This is, like Donald said earlier, right down from the road from us maybe $\frac{1}{2}$ mile there's a 38-acre tract for sale down there and it's been for sale for a year and a half. Why consider an 11-acre tract when you've got 38 acres down here that they are begging to buy. It affects our home, it's going to affect our pocketbook, our grandkids, it's going to affect everyone, and it's not right to bring a big company in here to do this because the little man is getting stepped on. They've got deep pockets and can do what they want to do, they've got people that do this for a living, we have to work our jobs and then do this and this is not fair to us to have to take in their effects. We are not going to benefit from it, the lady that's leasing the land is going to get the check, but it's going to drive our property values down and if we go to resale, who wants to buy a house when you are sitting here looking at a cell phone tower. You wouldn't and none of you here would. None of us. So you guys should consider that and stop this now, because this is a shame.

Chairman Patton: Thank you.

Chairman Patton: Pat Sarsfield

Pat Sarsfield Good evening your honors, I'm Pat Sarsfield and I'm here on behalf of American Tower Corporation. Before I actually get started with my presentation, if I may, I've got some basically some folders that include information I believe all of you have already received but also it contains a copy of the updated and current design or construction plans and also a report from Mr. Michael Berkowitz, who will come up here to testify. But he will tell you essentially I've got a copy of his report that shows that this cell tower, in fact, will not have any adverse impact on property values and in fact, we believe, that the cell tower enhances local properties and the usefulness and benefits that accrue to local owners. If I may approach, I don't have one for everybody, but I have a few that can be shared. A lot of the materials you already have, however, as Randy had stated earlier as a housekeeping measure, in tab 2 of these black brochures I have handed up are the revised construction drawings and originally the tower was going to be 250 feet and as you may be aware, there are a number of towers in the area that are that height or higher, however the FAA, due to some planned expansion of the airport in Lincoln County, asked us to lower the height to 225 feet. Due to some of the neighbors concerns, we went ahead and, on our own, reduced the tower height to what adds up to a total of 199 feet, 195 foot tower and 4 foot lightening rod. That enabled us to do a couple things, first of all, as you will see in the drawings under tab c-3, which is about 5 pages in, this allowed us to convert this from what had originally been a lattice-work type, which look like power lines, it's got 4 posts and goes up and has lattice-work going through it. Instead we are able, at this height to build what is generally called a monopole. It's made of galvanized steel and is less visible. It tends to blend in better. Given that it's under 200 feet, the FAA does not require any sort of permanent lighting up there for it. So, again we unilaterally, to try to accommodate some of the local property owners, dropped it to 199 feet and converted it to a monopole. As Randy had said in his opening statements, we have complied with all the requirements of the ordinance. There is a compelling need for the building of a site here, as an anecdotal note, I would point out these sites, building these towers is extremely expensive, American Tower doesn't do this for fun, they only do it when it's necessary for them to build out a complete network of coverage for their cellular communication system. Under Tab 4, there is a letter from AT&T that sets forth that there is a substantial need for the tower at this location and again I refer to Randy, I do that in an attempt to abbreviate the presentation, I know ya'll have a lot of things to cover today, but there is a need for this tower and under tab 5 in the binder, as you will look and see, this is what's called a RF study, a radio frequency study that was conducted. It shows currently the nearby cell towers that are already up here for the primary or initial tenant on the tower will be AT&T. This RF study was performed by AT&T and shows, as you can see, the red zone right around what looked like essentially a triangle, those are the towers that AT&T is currently on. Red basically, as you can see from the legend right below the map, red is your optimal coverage, yellow is not as good but tolerable. Green and blues, you start having problems with coverage. If you look next, that's again what currently is there. Right dead center, you can see a triangle, that's where this proposed tower would be. If you go to the next tab, tab 6, it shows what the coverage will be for AT&T if this tower is constructed. As you can see, it fills out this corridor, which I believe is a growing area that is kind of between 321 and 150. Again, you can see that it fiddles out the coverage so that there tends to be seamless coverage going around the area so that you don't drop calls. Now, there were some

comments about safety issues. First and foremost, lots of people say we're concerned about the radiation that can come down from these things. Well the federal government has established guidelines that are binding on everyone on what is deemed to be permissible exposure limits. Our transmitters comply with all those federal guidelines. There is not an issue as far as the government is concerned – federal government – as to whether or not this tower is safe. It is and meets their guidelines and so why people may say they are concerned about these different exposure issues, we respectfully contend that those aren't valid and that the federal government has already conclusively determined that. So not only is there not a safety or a negative impact on safety of the surrounding properties, we've found that cell towers actually help improve public safety and the reason is that more and more people, as you know, are starting to use cell phones and cutting their land lines. I don't have the exact numbers here in Lincoln County, but I can tell you that I recently had a cell tower over in Gaston County and we got the information from the Gaston County 911 operator and they informed us that approximately 75% of all the calls made to 911 were made on cell phones. Obviously as more and more people rely on cell phones in their time of need, if they've got to call 911 for an emergency, if you don't have good cell coverage, you've got a public safety problem. Again, I don't have the stats here for Lincoln County, but we've seen this all over the place that more and more people use cell phones, some don't even have a land line anymore and if somebody's out in an area where there's not good coverage and they need to call 911, well if there's not a cell tower there to pick up the signal, they may be out of luck. So not only is it not a public safety hazard, it's a public safety enhancement by having these cell towers built again, where there is not good coverage. Now the Ordinance requires that there be opportunities for colocation and as the diagram that we showed you in the revised construction drawing shows, this tower will be built so it can hold up to three additional transmitters, in other words, three other cell carriers can co-locate on this tower. Of course the purpose of that is to minimize the number of towers that needs to be built. But again, AT&T and American Tower have determined there is a need in that area and they need to build a tower there and again, they are expending a considerable amount of money to build a tower and they don't do that for fun. They only do that when it's very necessary for them to build out their coverage. There are also some questions, I think, or comments about potential EPA harm, I've done a number of these hearings and I've heard different concerns each time and it's the first time I've heard that one. I'm not saying it hasn't been raised before in other places, but to address that concern under Exhibit 7, in compliance with the ordinance requirements, there is general liability coverage, the ordinance requires it be up to one million dollars and American Tower does have coverage that will apply in case there is anything that would go wrong. We don't think there will be because the cell tower design is in conformity and compliance with the state building codes and all other safety requirements. In addition, as far as the setback goes under the ordinance, the setback requirements – this site initially would have met the setback and the fall zone for a 250 foot tower. Now it's only going to be 199 feet, so there is even more of a buffer. We already met the buffer requirements previously, but now, there is in essence, an extra 50 feet because the tower is 50 feet shorter than it had been initially planned to be built so again we believe all the safety requirements have been met for us to be entitled to have the tower constructed. There were some comments about there being traffic 24/7 for this tower, and that simply is not accurate. After the

tower is constructed, maintenance typically comes in there two times per month. If there is some type of emergency, something happens and the power goes out, there may be an initial unplanned visit, but typically they go in there every couple weeks to run a check on everything. So to say that there's going to be 24/7 traffic is simply not accurate in any way, shape or form. There will be an occasional visit and again it will be during the daytime. There will be a generator there in case the power goes out. It obviously will not run except approximately two times per month it kicks on for about 15 minutes, that can be set to run during the daytime. Also, it gives out, because it will be enclosed, it gives out about 70 decibels of noise, which is approximately quieter than what is typically deemed a noisy office, similar to what typically when someone has the radio turned on, the amount of noise. I haven't done those tests myself, I just did some internet searching for 71 decibels which is the estimate and found out what some comparable noises are in that range. So again, we've not, I'm not aware of any complaints or problems with noise coming from this. Again, the tower itself is very quiet, it'll be enclosed, it's on – we are leasing approximately 100 foot by 100 foot area on the property and there will be a 60 foot by 60 foot pad built there for the tower and supporting equipment. It will be enclosed by an 8 foot fence to make sure that nobody can come in and basically that's an added security feature. There will be no advertising on the tower, as per the ordinance. There's a couple signs right there on the base that give safety warnings and things of that nature, but again there's not going to be anything on the side like Taco Bell or McDonalds. There won't be advertising there. Again, the site, the visual impact will be as minimal as is possible. I've got a few more points to bring up and then what I'd like to do is call Mr. Michael Berkowitz. I will call him up in a few minutes and he will identify himself, and explain what he did and kind of go over his findings, which in the black folders is under tab 3 and I have extra copies of his report that I can hand out as well. Again, I think it's important to note that in conformity with the development standards here in Lincoln County, there are other site towers that are not too far off, in fact AT&T co-locates on some of them that are 300 feet. There is one over on Nole Road, which is a little north of this site, there is another 300 foot tower on Bethel Church Road to the west, so 199 foot monopole clearly is within the typical development scheme within the context of what cell towers can go in so again, we don't think there is a meritory subjection to it. Again, not only did we reduce it to 225 feet for the FAA, but again as an attempt to accommodate the local property owners, we further reduced it to 199 feet so that there will be no lighting on there and it will be a monopole. At this time since I've covered most of the preliminary issues, I would like to go ahead and ask Mr. Michael Berkowitz to come up.

Attorney Sarsfield: Michael, could you go ahead and state your name for the record.

Michael Berkowitz: Good evening, my name is Michael Berkowitz, I'm a certified general appraiser in North and South Carolina. I've been doing appraisals for eleven years, studied economics at Duke University, have taken many appraisal institute courses in working for a MAI designation.

Attorney Sarsfield: Michael, tell us, you were asked, is it correct to conduct a study of what impact, if any, this cell tower would have on adjacent property values. Is that correct?

Michael Berkowitz: The impact of any on property surrounding cell towers within the greater Lincoln County area, correct.

Attorney Sarsfield: How many different cell towers in Lincoln County did you examine?

Michael Berkowitz: I started with about 37 that met some of the criteria I was looking for with respect to comparability that was narrowed to twelve, which were shown in the report that I consider probably a lot better in that it was a rural area outside of Lincolnton, except for one of them, which was actually in Lincolnton.

Attorney Sarsfield: And you initially looked at 37 and narrowed that to 12?

Michael Berkowitz: That is correct

Attorney Sarsfield: And why did you do that, what was the process there?

Michael Berkowitz: The process was surrounding development patterns, zoning. Also with regards to size of towers, highway influence, other factors that would kind of skew the data and information from any study.

Attorney Sarsfield: So when you narrowed it down to 12, did you narrow it any further than that?

Michael Berkowitz: Yes, I did, the best three I found are described in the report and from those areas, I did a neighborhood analysis and what's called a regression analysis of data in those neighborhoods near the cell towers, sales of properties near the cell towers as well as other comparable properties within that same general geographic area.

Attorney Sarsfield: Michael can you explain a little bit about what a regression analysis is and what it does?

Michael Berkowitz: A regression analysis is a statistical analysis in which you are able to use multiple variables and be able to determine the impact of one of those variables versus another. What it does, it takes into account some of the changes in the other variables and then says ok, this impacts this and it helps you understand the relationship between those two.

Attorney Sarsfield: What sort of variables, could you give an example of some of them?

Michael Berkowitz: We looked at lot size, type of improvement, these were all residential properties so we looked at whether it was a manufactured home, a brick home, the size of the property, the location and neighborhood. We looked at the date of sale, we

looked at topography, zoning, so there were several factors. This is typically how counties reassess property in the area, they look at a multiple regression analysis.

Attorney Sarsfield: So again, just for the record, the type regression study you did, that is similar to what counties around the state of North Carolina do to evaluate properties?

Michael Berkowitz: That is correct.

Attorney Sarsfield – And based on your, when you did your regression study, did you do it on the three particular sites that you had chosen as comparisons?

Michael Berkowitz: I used the three sites with the ones with visual sites of a tower and then I compared them to comparable properties within the same neighborhood with the same sale date, with similar improvements to try and eliminate some of the impact of some of the other variables. When I did the regression analysis, the variable was the least impactful was at the location next to the tower. In fact, we saw some that were closer to the tower that sold for a higher amount, so to say that to me that was kind of a tale tale sign and it comes up with this statistical number in which it evaluates the impact of that variable on sales price and price per square foot is how I did it. And when it actually came out that “j” factor was the largest meaning it had the least impact on value of all the variables used.

Attorney Sarsfield: Mr. Berkowitz, based on the data you studied and the tests you conducted, and your experience and training, did you come to a conclusion as to whether or not the proposed cell tower that we are talking about here tonight will have any impact on property values.

Michael Berkowitz: The market data and statistical analysis provides no evidence of an impact on surrounding land values on price point or price per square foot for residential property.

Attorney Sarsfield: Thank you Mr. Berkowitz.

Commissioner Mitchem: When you are doing your appraisals and you are on an 11 acre tract, do you do anything about how close it is to a house, 200 foot, 100 foot, or if its 500 foot away from a house or 1,000 foot away from a house?

Michael Berkowitz: Do anything about what, as far as valuing a property?

Commissioner Mitchem: Yeah, if a cell tower is 200 foot from a house or dwelling, is that going to devalue that property more if it was 1000 feet away from that property.

Michael Berkowitz: To me, the market does not support that. My job as an appraiser is to reflect the market.

Commissioner Mitchem: In your opinion, would it?

Michael Berkowitz: No

Commissioner Mitchem: So there is no justification that if that tower is closer to a house, it would not devalue that property? If you were setting, looking at a house to appraise, and you've got a cell tower 200 foot right behind this house, or you've got a house over here with a cell tower 1000 to 1500 feet away, can you not make that decision right now whether it will make a difference.

Michael Berkowitz: Absolutely, I would not consider it because, in fact there is market data out there with a 150 foot lattice work tower within 200 foot of a house.

Commissioner Mitchem: And what years were you at Duke?

Michael Berkowitz: I graduated in 89 sir.

Commissioner Mitchem: Thank you.

Commissioner Robinson: Were you able to find a similar scenario, with where you've got a tower with this much residential around it?

Michael Berkowitz: Yes, it was actually on Leon Huss Lane, it was 150 foot lattice tower that was surrounded with residential single-family homes.

Chairman Patton: Any other questions.

Christine Poinsette: Do any of your towers, are any of them, do any of them have radiation contamination?

Attorney Sarsfield: I am not aware of that, I know a lady said that earlier, but I do not have any data one way or the other. I certainly would think that would be known out in the community if that were accurate, but I can't – I don't know what data is being referred to and I don't know what American Tower would have to say about any allegations like that. So I'm sorry that I can't give you any information. I've never been asked that question before and that issue has never been brought up, I understand certainly why you are asking it, but that issue I have never had raised at a hearing before so we did not come to address that. The typical safety issues that are raised are if the tower falls, what sort of fall zone is there, or setback. We have complied with the county's requirements there as far as radiation transmission, you know power emission from the tower, we complied with the federal governments regulations on that – I am not aware of any safety ordinance or zoning requirement here that addresses that issue and so we pattern our application and what we do to comply with state, local and federal safety requirements including the building code and things of that nature, so my understanding is yes, we have complied with everything but again, that issue and that information, if somebody has pulled something off the internet or an article, I don't know about the reliability of that. And so I am not aware of it, but that's the best answer I can give. I

apologize, but we've never been asked to address that issue before. And again, I know that's not a very complete answer, but it's the best I can do with the information we have.

Christine Poinsette: How much diesel fuel is used and stored on that site?

Attorney Sarsfield: I am not sure how many gallons are kept in the generator. This is a generator that they buy from a generator manufacturer. Again, the exact amount that is kept there, I do not know. Again, I'm not aware of there having been a generator failure that leaked out fuel. That's not to say that has not happened somewhere in the United States, again, I don't want to represent that I know definitively one way or the other on that. But again, to cover any potential dangers, the ordinance requires us to carry a million dollar policy and we do that, and again we buy a generator that has been used over and over again on these towers. I can tell you that but again, the specs on it, I checked the decibel level on them, because that issue has been raised before. But we have not previously been asked about the amount of fuel that is held there, so I couldn't tell you.

Commissioner Mitchem: Would you know if that fuel is below ground or above ground?

Attorney Sarsfield: My understanding is that it was above ground, I know the generator is above ground, but I couldn't – I can check, and it may be in the building plans, because again as far as the housing of the fuel and the amount, things like that has not come up in previous hearings, but I can look in the specs. I am not aware of them digging underneath it to have a storage tank below ground.

Commissioner Mitchem: Any propane ever considered instead of fuel?

Attorney Sarsfield: My understanding is they just use diesel and that's the generator that they've used on other sites here in North Carolina. So as far as one that is fed by some other power source, I'm not sure, but again they use one that they feel comfortable that is safe because again, they are responsible if something were to go wrong. That's why they carry the coverage. Nothing is fool-proof but American Tower builds a lot of these towers and they feel comfortable with the generator they use.

Commissioner Mitchem: So they have built them as close as 200 foot to a house?

Attorney Sarsfield: They may have, I don't know specifically the dimensions of exactly where each place they have built, how close it is to a house. Typically, the distance from a residential structure is determined by the height of the tower and the fall zone. While the gentleman did say it's 200 feet, I don't believe that's accurate because the site, which has not changed the specific location, was originally built to handle a 250 foot tower and the additional fall zone required by the Lincoln County Ordinance, which is I believe an additional 50 feet, at any rate, that would add up to 300 feet under the original tower assuming that the fall zone is the height of the tower. That may not be exactly the same but again, that is typically how most jurisdictions, including here in Lincoln County, determine how close a tower is built.

Commissioner Klein: There was earlier testimony that one of the folks that came up spoke to his bank or a bank and they referred to a cell tower as a nuisance when presumably that property owner would come and ask for financing to do whatever they want to do, but it appears that your statistical data suggests not so help me understand why a bank would consider it a nuisance and statistically it's not. So what, are we looking at two different data streams or what?

Michael Berkowitz: I have not heard of a FHA loan using bad marks for a cell tower. If that is the case, then I have not seen that. They do not ask on a FHA loan what is the proximity of cell towers are in any of their FHA forms for residential appraisal. I do not know what they were referring to because I have not had to address that issue at all.

Commissioner Klein: Could I ask a question of Randy on the UDO requirements? The certification that the adjoining tower is indeed within the two mile radius. Do we have certification that this can't be used or they won't provide space?

Randy Hawkins: The certification is in your packet. I believe that the testimony and the information in the packet is that AT&T is currently located on a tower that is within that distance and that does not provide adequate coverage for this area.

Commissioner Klein: So co-locating on there is not in the opinion of that tower owner

Randy Hawkins: AT&T is already there

Commissioner Klein: In that other location

Commissioner Mitchem: And that's the one that less than a mile and 3/10's away?

Randy Hawkins: It's less than 2 miles away, I'm not sure about the one that was referred to by the speakers, if AT&T is on that tower, we can check on that.

Commissioner Mitchem: In the UDO, does it say that we can't have them closer than that or what?

Randy Hawkins: The actual language is that the approval shall not be issued unless the applicant certifies that the existing tower or structure does not meet the applicant's structural specifications or technical design requirements. In this case, I believe technical design requirements would be to cover that area, the additional area that they are proposing to cover with this. They have certified that they are already on the other tower and it doesn't cover this area adequately.

Commissioner Mitchem: And it's only a mile or so away?

Randy Hawkins: It's less than 2 miles, less than 10,500 feet.

Commissioner Robinson: So someone has verified that there are no other towers around that can cover that, I think that's the question that we are asking. The only reason I bring that up is because you said this particular one. You said you didn't know about the other one, but I would assume someone has verified. Like you said, AT&T doesn't like just building towers. If there was another tower around, wouldn't they leverage it? I want to make sure that someone has verified that thought. It doesn't sound to me like we are real sure of that, I'm not getting a real affirmative answer that this has been verified.

Randy Hawkins: Correct.

Commissioner Mitchem: But this tower is only being built specifically for AT&T?

Attorney Sarsfield: Sir, I can answer that question. This tower is being built by American Tower but it's initial tenant is going to be AT&T. AT&T is going to rent out one of the slots that the tower can accommodate. It can hold up to 4, has 3 co-locations, so three other carriers can also put their transmitter on the tower, not just AT&T. AT&T wants this tower to cover the coverage area that was shown in exhibits 6 and 7.

Commissioner Mitchem: So AT&T rents this tower from American Tower?

Attorney Sarsfield: Yes sir.

Commissioner Mitchem: So AT&T is not really building this tower, they just want a slot on the tower?

Attorney Sarsfield: Well I think essentially American Tower would not build it unless one of the carriers had the need for it, they don't spec build them.

Commissioner Mitchem: Oh, I understand. That's basically what you are doing, specifying who is going to go on there.

Attorney Sarsfield: Well yes, I mean they do that instead of just building a tower in hopes that people will come.

Commissioner Mitchem: If AT&T is on one that is a mile or two away, why would they want on this one too? Does it make that much difference to them?

Attorney Sarsfield: Well, your honor,

Commissioner Mitchem: I ain't no honor

Attorney Sarsfield: Sorry, I was in court earlier today. AT&T, again, has submitted coverage studies they say they need their coverage area here is not sufficient and that's why they want to build this tower. Again, those are based on RF studies.

Commissioner Mitchem: That's why they want a spot on the tower, they are not building no tower. American Tower is building the tower.

Attorney Sarsfield: Yes, AT&T wants a spot on the tower to fill their coverage gaps, which they have shown in these exhibits 5 and 6, that we went over, that shows were this tower would be built and it's essentially being built because AT&T has that coverage gap there. American Tower is building the tower, it's being built there because essentially AT&T has the need for that and presumably other carriers will want to go on there as well.

Commissioner Mitchem: Well there's more than one wanting to go on there or you wouldn't be building it.

Attorney Sarsfield: That would be my suspicion, but I don't deal with so I don't want to – they are building it with the, I'm sure, the intention of leasing out those other spots but I don't know what discussions or communications they may have had with the other carriers so as far as, again, Your Honor, the RF studies

Commissioner Mitchem: I'm not an Honor, please don't call me that.

Attorney Sarsfield: I'm sorry, my apologies, Mr. Mitchem. The certificate of need that I think Randy was referring to, was Exhibit 4, the letter to the Board of Adjustment and these

Commissioner Klein: Randy, do we have that in our packet or in the black book here?

Randy Hawkins: This is in the packet, this is the page that's before the color coverage sheet. It lists 3 existing telecommunication towers which AT&T is already installed on and references those by numbers and the numbers of the towers are indicated on the coverage sheets.

Commissioner Robinson: Are there other towers in the area though Randy? I mean, I understand that's the ones they say they are located on, but are there other towers they could locate on and get this same coverage? I don't have any idea how many towers are out there so I'm just wondering.

Chairman Patton: Page 10, under section three, there shows probably a dozen towers, thirteen other towers around that.

Randy Hawkins: I don't believe they have the one listed that was off Buffalo Shoals Road

Chairman Patton: Any other questions before we move along?

Commissioner Klein: I have one point, actually I have two questions. There was earlier testimony that a monopole design tower could, in fact, be expanded higher. Is that going

to happen, it that written and not going to happen or is that true, what do we know of the future?

Attorney Sarsfield: As far as is it structurally, from an engineering prospective, possible, I don't know, but I would guess that it would be feasible. I think that the local ordinance allows up to a 20 foot addition if it's deemed necessary. I think, my understanding, and Randy would be better able to address that than me, but I think that would have to come back for approval in front of the Board. Right now all I'm aware of is their plan is to build the 199 foot tower and co-locate these other, hopefully get four transmitters on there, but as far as any plans for expansion of the tower, I'm not aware of that. But I would assume that is a possibility, I don't know if that's been done on other towers here in Lincoln County or not. I guess it's a possibility, but I couldn't answer one way or the other about their future intentions.

Commissioner Klein: I just have a comment, I guess, on the scale on C-5 and C-6, they suggest to me that they are probably close to 2 miles away yet there was earlier testimony that were 1.3 miles away, so a bit confused there. Maybe there is a tower that is not shown on C-5 or C-6, I'm not sure, but if it's 2 miles then it exceeds the 10,500 feet that's in our ordinance and wouldn't have needed certification. So I'm not really sure whether to Mr. Robinson's point, whether we have other towers that we are not showing on here or the 1.3 miles is incorrect. I can't imagine the scale is incorrect on C-5. I mean it just looks like if you put that up they are all, maybe tower 150 is within 2 miles barely, the other ones appear to be well outside the 2 mile scale.

Attorney Sarsfield: Your honor, I would assume, based on the fact that there is a scale towards the bottom of those printouts that that is accurate and as far as what other towers, if any, are within that ring, I'm sorry, your honor, excuse me, not your honor, Mr. Klein, I can't speak to that.

Floyd Dean: I have a couple questions for the appraiser. In the appraisal report, there is a section for view for residential property. Would it be your opinion as an appraiser that if a tower was 200 feet behind a residential structure, the property one mile in either direction of the same type of dwelling, has pastoral view, nice pasture, woods, that sort of thing, as an appraiser wouldn't it be your opinion that the house that does not have the tower behind it 200 feet would sell for less money, be less attractive to general market? The other thing is the banking industry doesn't use regression analysis for doing banking, they use completely market comparable analysis so in your research, did you find any comparable sales that were similar to this gentleman's house with a tower that is going to be setting 200 feet behind his structure that would sell for a similar price or value as the house that had the pastoral view?

Michael Berkowitz: Yes, sir, I did, on Lee Huss Lane.

Floyd Dean: Well, Lee Huss Lane, and I'm quite familiar with it, I'm familiar with that tower also, and it's probably as close to comparable as what's being proposed, because the residents around it, but there are quite a number of doublewide mobile homes very

close to it. Dove Haven, just south of it, is a very nice neighborhood, but it's probably 1000 feet from this property. I'm asking a question, did you find any single family house similar to the property owner's that was for sale, that sold, that would indicate that there would not be no adverse effect on the view of a tower 200 feet behind someone's house, that presently has a pastoral view.

Michael Berkowitz: I did not find a matched pair to do that, that is why the regression analysis is more appropriate.

Floyd Dean: I understand that, but there is no way to determine that that value would not be adversely affected, except for an appraiser's general knowledge, knowingly that a tower or any other type of structure that takes the presence or takes away from the pastoral view of a side, does not adversely affect that side.

Michael Berkowitz: Yes, and one of the issues at hand is also there are a significant amount of electricity transmission lines in the area, also there are iron maidens, which I think are much worse.

Floyd Dean: But there is no tower in the person's back yard.

Michael Berkowitz: Yes, there are poles 30 to 40 feet with wires coming from them and it's a matter of it, to me, I would not adjust for that tower based upon that.

Floyd Dean: Would you mention it in your appraisal report that there is tower 200 feet behind this residential property that may or may not adversely affect the value?

Michael Berkowitz: Well, in my opinion, it does not. Would I mention it, possibly, it depends upon whether I would think that it was in concert with surrounding developments and the fact that there are electrical transmission lines in there, I would probably mention those because there are probably easements leading to the properties. I would also mention that those lines are

Floyd Dean: You would mention those type of things in your report?

Michael Berkowitz: Typically yes.

Floyd Dean: Anything that would take away from the view, you would mention? Or that in your opinion would adversely affect value, you would mention in your report, even if you didn't deduct for that value, you would mention that in your report?

Michael Berkowitz: Not necessarily, it depends upon the property and what I'm looking at with respect to it, if I was looking at mountain properties with views, I would spend a lot more time on the view. As opposed to a property with low-lying areas where the view is not the most important factor in purchasing a lot or having a property, so it really depends on the impact of those visual impacts.

Floyd Dean: In doing your study, would you not have to take the property that has cell towers adjacent to it, and go to neighborhoods that doesn't have a cell tower adjacent to it and find out if that property value in those places is reflecting the same?

Michael Berkowitz: That's exactly what I did and the market bore out that there was no empirical evidence to support a diminution in value based on that analysis.

Floyd Dean: But you didn't find no one particular house that had a cell tower that had sold?

Michael Berkowitz: It included other variables to be addressed and that's why you use a regression analysis to eliminate the impact on the variables.

Floyd Dean: Because you couldn't find no comparable sales?

Michael Berkowitz: Not at the same date, not with other factors impacting the sale price. That's why regression analysis accounts for those other variables.

Floyd Dean: I suspect you would never find one.

Chairman Patton: Alright any other questions from Mr. Berkowitz? Alright, continue on.

Attorney Sarsfield: I think we have covered everything that we needed to as far as what we propose to build, what the criteria are, the details of it, and again, as Randy had said at the opening, and we certainly agree with that, we've complied with all the requirements of the ordinance for the issuance of a conditional use permit. There will not be any material endangerment to public safety or health based on the construction of this tower, in fact, we contend that there will be an improvement in public safety because there will be, again, a greater ability to access or contact 911 in this area by people who are more and more, larger segment of the population is using cell phones to make those calls. The use in this case meets all required conditions and specifications of the ordinance, again, I keep harping on it, but as Randy had said in his opening, we certainly agree with that that we think all those have been met. As Michael, Mr. Berkowitz, has just shown, there is no substantive objective evidence that there will be a, as the ordinance requires, a substantial injury to the value of adjoining or abutting property, in fact not only will there not be a substantial injury, the evidence shows out there, the sales data shows that there won't be any negative impact. Again, the location and character of use is in harmony, it's a permitted use in this area. We have done all that we can to minimize the impact by reducing it to a 199 foot monopole, it won't be lit, is galvanized steel as opposed to the lattice work design so we believe that we have complied with all the criteria required to obtain the conditional use permit and we would ask that our application be granted. Thank you.

Chairman Patton: Thank you.

Next individual signed up to speak, and I'm sorry I can't make out the name, the address is 815 Matthew Commons Drive in Matthews.

Attorney Sarsfield: Your honor, he was with us, but our presentation is complete.

Martin Oakes: 8057 Lucky Creek Lane, Denver, North Carolina. I would submit that the application by the applicant is incomplete in the sense that it doesn't seem that every tower within the 2 miles has been checked for whether or not it could be co-located, they didn't give a very clear answer that I heard anyway. Another comment I have is that in general, the County Commission's own rules of procedure is that agenda items must be submitted 72 hours ahead so that you can all have the package to read. In this particular case, as in the case of the solar farm, you were dropped on your desk a large package of about 100 pages at the last minute. It's pretty clear that nobody has a chance to read it, sounds like the Affordable Health Care Act, and so I would submit that both the Planning Board and Commissioners and residents need a chance to read that documentation before you proceed. I suggest therefore the same solution with the solar farm is that you continue the hearing for 30 days until everybody has a chance to clean up the documentation and everybody has a chance to read it.

Chairman Patton: Is there any interest by the Board of continuing this public hearing?

Commissioner Mitchem: The Planning Board can make that determination too, right?

Chairman Patton: Yes, they can.

Commissioner Mitchem: Let's let the Planning Board make that decision.

Randy Hawkins: Let me suggest if the Board or even if the Planning Board is interested in hearing more evidence, this hearing needs to be held open or continued to a later date. I don't think it would be proper to ask the Planning Board to decide whether in effect to reopen the public hearing. There is a letter in your packet from AT&T certifying that no other combination of locations or engineering technologies will satisfy this need to provide coverage in this area, signed by Charles McDonald. I would suggest if you are interested in this issue of another possible tower in this area that might be able to handle this, that you continue the public hearing and ask American Tower to provide additional evidence.

Chairman Patton: But that letter is saying that no other tower meets their needs? Did I read into that wrong what you just said?

Randy Hawkins: Correct

Commissioner Klein: Randy can I ask you a question? Why would we go ahead with the hearing, like we have tonight for quite a while and to Mr. Oakes point, we hear 2 things, the drawings aren't correct or we have no drawings and two, here's a big book with all this stuff on it. How do we reconcile or the Planning Board reconcile the notion that

we're ready. A reasonable person couldn't draw a conclusion that says I have enough information and I understand enough to make a decision on this hearing, which is what the applicant is requesting.

Randy Hawkins: The zoning packets were emailed to the Commissioners at least two weeks prior to the hearing.

Commissioner Klein: But not this, I don't know what this says that that doesn't say, because I haven't read it.

Commissioner Robinson: Didn't they just recently change though? I mean, what was emailed to us, the height of the tower?

Randy Hawkins: 225 feet

Commissioner Robinson: Hadn't that been amended, first time I've seen that.

Commissioner Klein: I'm just asking why, I suppose, why we chose to go ahead with this level of uncertainty.

Randy Hawkins: We had the certification from AT&T, the letter in the packet that they had looked at other locations and that none of those locations would fill this gap in coverage. I don't disagree, there probably should have been more testimony about that from the applicant. It came up as a question.

Commissioner Robinson: And how do we verify it? How are we supposed to know that that's the case? You know these people like to build towers, regardless of what they say, they rent that space out and make money off of it.

Randy Hawkins: Well one way to verify that would be to have the engineer who certified that to be here to testify and that would require continuing the public hearing.

Chairman Patton: Is there a motion to do so?

Commissioner Robinson: I didn't hear enough evidence tonight that makes me feel comfortable that that's the case and you know maybe somebody did sign this and certify it, but it would be nice to hear them tell us why these other towers won't do that.

Commissioner Robinson: I make a motion to continue it until the first meeting in November.

Chairman Patton: All in favor indicate by saying aye.

Vote: Motion passes unanimously.

CUP #330 Kenneth Tucker, applicant

The applicant is requesting a conditional use permit to allow a self-storage facility in the Eastern Lincoln Development District (ELDD) in the I-G (General Industrial) district. Under the Unified Development Ordinance, a self-storage facility is a permitted use in the I-G district and a conditional use in the ELDD. A site plan is included as part of the application. The plan calls for eight units designed for storage of campers and other vehicles. The facility would be accessed by an existing driveway off N.C. 16 Business.

The 1.0-acre parcel is located about 300 feet west of N.C. 16 Business on the north side of Sugar Wood Lane. It is surrounded by property zoned I-G. Land uses in this area include industrial, business and residential. This property is part of an area designated by the Lincoln County Land Use Plan as industrial.

ADDITIONAL INFORMATION

Adjoining zoning and uses

- East: zoned I-G, offices.
- South (opposite side of Sugarwood Lane): zoned I-G, concrete plant.
- West and north: zoned I-G, concrete plant and concrete products manufacturing facility.

Commissioner Klein asked if there is a site line issue from Hwy. 16 for this proposed location because there are parcels in front. I'm not familiar with the topo so I'm not sure.

Randy Hawkins stated that in terms of the visibility of this facility from the highway, it will barely be visible if at all.

Chairman Patton opened the public hearing concerning CUP # 330 – Kenneth Tucker, applicant.

Kelly Atkins, 276 Lariat Drive, stated that you really cannot see this from Hwy 16 since it takes it pretty good dip. He said he had photos from the site looking back at 16 and it's well over 300 – 400 feet. He said as vehicles travel, looking down, they may see the top of it. It will be 8 units and will not be expanded.

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

WSCUP #16 C4 Development, LLC, applicant (Parcel ID# 34062)

The applicant is requesting a conditional use permit to allow the use of the high-density option in the WS-IV Protected Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop a 1.6-acre lot with an 8,320-square-foot retail store, driveways and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. Otherwise, in this watershed district, non-residential developments that require an erosion control plan are limited to a built-upon area of 36 percent. In this case, a built-upon area of approximately 42 percent is proposed.

The property is located on the north side of N.C. 16 Business about 850 feet west of Forest Hills Drive in Catawba Springs Township. It is zoned B-N (Neighborhood Business) and is adjoined by property zoned B-N, B-G (General Business) and CU B-G (Conditional Use General Business). Land uses in this area include business, institutional and residential. This property is part of an area identified by the NC 16 Corridor Vision Plan as the “Downtown Denver” community center, a service area for surrounding neighborhoods.

Under the water-supply watershed regulations of the Lincoln County Unified Development Ordinance, the Catawba/Lake Norman Watershed is designated for the use of the high-density option. The option requires the use of stormwater control structures to control and treat the runoff from the first one-inch of rain. The structures must be designed to meet the Best Management Practices (BMP) standards of the N.C. Department of Environment and Natural Resources. In this case, the plans call for a sand filter basin.

The regulations require the developer to post a bond or other financial security in an amount not less than 1.25 times the cost of constructing the necessary stormwater control structure. In addition, a binding agreement must be signed, requiring the owner to maintain, repair and, if necessary, reconstruct the structure in accordance with an approved operations and maintenance plan. Once the stormwater control structure have been constructed and inspected, and prior to the release of the financial security, the applicant is required to deposit with the county either cash or a similar approved instrument in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining the structure over a 20-year period, whichever is greater.

Chairman Patton opened the public hearing.

Christine Poinsette asked about the wet detention ponds being inspected and if the Planning staff will be doing the inspections.

Mr. Hawkins said they will and will be scheduled, usually in the summer.

Todd Simmons, 209 West Stone Avenue, Greenville, South Carolina, stated that he is representing the engineers for the project. He said they have worked with staff on this and are maybe 6% over on impervious and needing this request.

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

The Planning Board moved to the 2nd floor balcony.
Chairman Patton declared a five minute recess and then called the meeting back to order.

Public Hearing - Industrial Development Incentive Grant for Existing Industry and motion to adopt Resolution #2013-30: Resolution to Adopt Economic Incentive Grant Agreement- Kara Brown presented the following:

RESOLUTION TO ADOPT ECONOMIC INCENTIVE GRANT AGREEMENT WITH PACKAGING UNLIMITED

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

WHEREAS, Packaging Unlimited, has developed plans for expansion of their manufacturing equipment in Lincoln County; and

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

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

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

This 7th day of October, 2013.

Alex Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 7th day of October 2013, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"), and Packaging Unlimited, a Kentucky corporation (hereinafter referred to as "Packaging Unlimited").

WITNESSETH:

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

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

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

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

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

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

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

1. On or before January 31, 2014, Packaging Unlimited shall begin installation of new equipment and machinery in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), Packaging Unlimited shall make an investment upon such site in machinery and equipment of \$1,317,198.48, of which \$922,038 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the effective date of this agreement, Packaging Unlimited shall provide at such site at least 3 new jobs paying average hourly wages of \$13.00
4. In consideration of the performance of the aforesaid obligations by Packaging Unlimited, the County will provide cash grants to Packaging Unlimited of \$3583.96 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to Packaging Unlimited within 30 days after Packaging Unlimited has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level 1 grant under the

Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

5. Packaging Unlimited shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.

6. In the event that the value of the investment actually made by Packaging Unlimited pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.

7. Packaging Unlimited specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, Packaging Unlimited shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

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

Packaging Unlimited

By: _____
President

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

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

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve Resolution #2013-30: Resolution to Adopt Economic Incentive Grant Agreement for Packaging Unlimited.

Public Hearing - Industrial Development Incentive Grant for Existing Industry and

motion to adopt Resolution #2013-31: Resolution to Adopt Economic Incentive Grant Agreement- Kara Brown presented the following information:

**RESOLUTION TO ADOPT ECONOMIC INCENTIVE
GRANT AGREEMENT WITH CATALER NORTH AMERICA**

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

WHEREAS, Cataler North America, has developed plans for expansion of their manufacturing equipment in Lincoln County; and

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

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

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, Cataler North America.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon adoption.

This 7th day of October, 2013.

Alex Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 7th day of October, 2013 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"), and Cataler North America, a North Carolina corporation (hereinafter referred to as "Cataler").

WITNESSETH:

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

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

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

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

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

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

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

1. On or before January 15, 2014, Cataler shall begin installation of an equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), Cataler shall make an investment upon such site in machinery and equipment of \$6,470,800, of which \$4,529,560 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the effective date of this agreement, Cataler shall provide at such site at least 4 new jobs paying average hourly wages of \$18.00 with benefits.
4. In consideration of the performance of the aforesaid obligations by Cataler, the County will provide cash grants to Cataler of \$17,606.40 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to Cataler within 30 days after Cataler has made its tax payment for the then-current year and has

notified Lincoln Economic Development Association of the payment. This amount represents a Level 1 grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

5. Cataler shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.

6. In the event that the value of the investment actually made by Cataler pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.

7. Cataler specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, Cataler shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

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

Cataler North America

By: _____
President

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

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

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution #2013-30: Resolution to Adopt Economic Incentive Grant Agreement for Cataler Unlimited.

Request for Purple Heart County Designation and motion to Approve Proclamation

in Honor of the Military Order of the Purple Heart: Mike Stubbs, Commander of the Military Order of the Purple Heart Wounded Warriors Chapter 634, United States Army Vietnam, along with other members asked the Board to consider their request for Purple Heart County Designation and to approve the Proclamation in Honor of the Military Order of Purple Heart.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the Proclamation in Honor of the Military Order of Purple Heart. The Board then presented the group with the Proclamation.

Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)

Chairman Patton opened public comments.

Being none, Chairman Patton declared public comments closed.

Motion to Approve the Professional Service Agreement between Lincoln County and CBSA Architects for architectural and design services on the renovation of Oaklawn School -Randy Williams presented the following:

It is recommended that the Board approve the attached Professional Service Agreement (contract) between Lincoln County and CBSA Architects for architectural and design services on the renovation of Oaklawn School. This contract covers the architectural and design services, preparation of the construction and bidding documents, and construction management of the project. There is a set fee of \$58,000, plus up to \$5,000 in reimbursable expenses. There are also fees for additional services, should Lincoln County request them, however, it is not anticipated that additional services will be utilized. Funds are included in the CDBG budget to cover these architectural design services.

Lincoln County received a \$500,000 CDBG NC Catalyst Grant in 2012 for the renovation of the former Oaklawn School building located at 410 Linden Street. The project is estimated to total \$685,000, which is to be funded through the \$500,000 CDBG grant, a \$100,000 capital contribution from the Boys and Girls Club, and an \$85,000 contribution from the County for the roof replacement. The project has been progressing with environmental studies and cleanup over the last several months.

In June 2013, the county solicited RFPs for architectural services for the proposed renovations. We received four responses to our RFP. A Committee comprised of staff from the Planning and Inspections Department, Public Works Department, and County Manager's Office reviewed the proposals based on:

- Technical approach proposed for the project,
- Experience of personnel who will be assigned to the project,
- Experience the company has had with CDBG programs,

- Firm's familiarity with our County,
- Historic rehabilitation experience and
- Fee schedule.

The Committee recommends the contract be awarded to CBSA Architects (Hickory, NC).

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the Professional Service Agreement between Lincoln County and CBSA Architects for architectural and design services on the renovation of Oaklawn School.

Motion to approve Resolution #2013-32: Resolution (1) Authorizing Pursuing an Installment Refinancing With First-Citizens Bank & Trust Company, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to that Refinancing - Deanna Rios and Mitch Brigulio, with Davenport and Company, spoke concerning the Refinancing. Mr. Brigulio said they are serving as the County's financial advisor for this proposal process and refinancing.

Commissioner Klein introduced the following Resolution which was read by title, and moved it be adopted:

RESOLUTION (1) AUTHORIZING PURSUING AN INSTALLMENT REFINANCING WITH FIRST-CITIZENS BANK & TRUST COMPANY, (2) MAKING CERTAIN FINDINGS AND APPOINTMENTS AND REQUESTING APPROVAL OF THE LOCAL GOVERNMENT COMMISSION AND (3) CALLING A PUBLIC HEARING RELATING TO THAT REFINANCING

WHEREAS, Davenport & Company LLC ("Davenport"), on behalf of the County, distributed a Request for Proposals to secure a bank commitment for the refinancing of all or a portion of the County's 2003 and 2006 outstanding Certificates of Participation;

WHEREAS, County staff and Davenport recommend accepting the proposal of First-Citizens Bank & Trust Company;

WHEREAS, in order to secure required approval of the refinancing by the Local Government Commission of North Carolina, the County must make certain findings and must hold a public hearing;

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

1. The Board hereby finds and determines in connection with the proposed installment refinancing contract that (a) such proposed contract is necessary or expedient to the County, (b) such proposed contract, under

current circumstances, is preferable to a general obligation bond issue of the County for the same purpose, (c) the sums estimated to fall due under such proposed contract are adequate and not excessive for their proposed purpose, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) no increase in taxes will be necessary due to the proposed contract and (f) the County is not in default regarding any of its debt service obligations.

2. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed contract under Article 8 of Chapter 159 of the General Statutes of North Carolina. The Board appoints Davenport as financial advisor and Robinson Bradshaw & Hinson P.A. as special counsel for the transaction. The Board calls for a public hearing on the proposed contract to be held at its regularly scheduled meeting on October 21, 2013 and for appropriate notice of that hearing to be published.
3. The Board hereby accepts the proposal of First-Citizens Bank & Trust Company. County staff is hereby authorized to file an application for approval of such proposed contract with the Local Government Commission of North Carolina and is authorized to take such other action as may be advisable in connection with the negotiation of such proposed contract and the development of the related financing; and all actions heretofore taken by staff of the County relating to such matters are hereby approved, ratified and confirmed.
4. This Resolution shall become effective immediately upon its adoption.

Commissioner Robinson seconded the motion and the motion was adopted by the following vote:

AYES: Patton, Robinson, Mitchem, Klein
NAYS: None

Motion to approve the purchase of a 2013 John Deere 5085E Utility Tractor and a John Deere 553 Standard Loader attachment from James River Equipment, located in Shelby, NC, in the amount of \$41,856.77, utilizing State contract prices - Don Chamblee presented the following:

ACTION REQUESTED

Lincoln County Solid Waste requests approval from the Board of Commissioners to purchase a 2013 John Deere 5085E Utility Tractor and a John Deere 553 Standard Loader attachment from James River Equipment located in Shelby, North Carolina in the amount of \$41,856.77, utilizing State contract prices.

BACKGROUND

The 2013 John Deere 5085E Utility Tractor with John Deere 553 Standard Loader attachment would replace a 1997 Kubota L4300 Utility Tractor which has considerable wear and tear. The 1997 Kubota does not have an enclosed cab for the safety of the operator in the event of an accident involving roll over. The tractor is used at the landfill for mowing approximately 200 acres and is also used at the Owls Den convenience site to mow more than 90 acres. Funding will be from CIP PW LF 28.

The 2013 John Deere 5085E Utility Tractor has a standard warranty which includes two years or 2000 hours, and a six month electrical warranty which includes the power train.

Commissioner Mitchem asked about giving local companies a chance to match these prices.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the purchase of a 2013 John Deere 5085E Utility Tractor and a John Deere 553 Standard Loader attachment from James River Equipment, located in Shelby, NC, in the amount of \$41,856.77, utilizing State contract prices.

Motion to approve Dorsett Technologies, Inc. as a sole source provider for SCADA equipment for the water system as well as the proposal in the amount of \$48,817.00 with funding from the water and sewer operating fund - Don Chamblee presented the following:

BACKGROUND

Lincoln County Public Works purchased the SCADA system for both our water treatment plant and our new waste water treatment plant in 2010 from Dorsett Technologies, Inc. The systems monitor and control processes for the production of water and the treatment of waste water including flows, chemical levels, tank levels, pumps and valves. Both systems provide notifications / alarms.

Lincoln County Public Works is currently under construction with Gilbert Engineering to complete a \$3.5 million in plant maintenance and improvements which include a new screw press and building, new sludge handling equipment, new chemical storage and handling facilities and maintenance of the existing basins. SCADA was not included in the WTP upgrade contract because in order for Dorsett Technologies, Inc. to price the project they needed detailed information on the equipment.

Dorsett Technologies, Inc. has provided the attached proposal to add the new equipment wiring, installation, programming and supervisor training to the existing SCADA system. We request to continue with Dorsett Technologies, Inc. being awarded this sole sourcing installation and maintenance of our SCADA systems. We propose to fund the County portion by transferring from the water and sewer operating fund.

ACTION REQUESTED

Lincoln County Public Works requests approval from the Board of Commissioners to approve the Dorsett Technologies, Inc. as a sole source provider for SCADA equipment for the water system as well as the attached proposal in an amount of \$48,817.00 with funding from the water and sewer operating fund.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Dorsett Technologies, Inc. as a sole source provider for the SCADA equipment for the water system as well as the proposal in the amount of \$48,817.00 with funding from the water and sewer operating fund.

Motion to execute a contract with W.K. Dickson & Co. for \$49,600.00 for engineering services - Don Chamblee

BACKGROUND:

Howards Creek Booster Pump Station was constructed at its current location in 2006. The station consists of three 50 HP pumps with a capacity of 700 gpm for each pump. The purpose of the station is to supply water to the Western pressure zone, thereby filling the existing Northbrook elevated tank.

The Northbrook tank is scheduled for maintenance and cleaning during which time the tank is required to be off-line for approximately eight weeks. In the past during this time one of the existing 700 gpm pumps was run constantly to maintain service to our customers. To offset the large difference between the pumping capacity (700 gpm) and the water demand (50 gpm), automatic pressure relief valves were located throughout the system. These valves open when the pressure produced by the pump exceeded a set value. This basically results in constant water loss of approximately 576,000 gallons per day.

The project consists of removing one of the three existing pumps and installing a variable frequency drive (VFD) pump which will allow water to be provided at approximately the same rate of water use and minimize the water loss during maintenance. The project will also include the installation of diesel generator (County has spare generator for site), VFD controls, electrical service and SCADA modifications. In addition the VFD will allow staff to control the rate of filling the North Brook Tank in the future.

W.K. Dickson & Co., Inc. will provide the design, permitting, and construction administration for the project. Staff has reviewed the proposal and recommends approval of the attached proposal.

The project will be funded from the 2014 Capital Improvement Project fund and has a total budget of \$125,000 for design and construction. The current Engineer's estimate for the design and construction of the project is \$150,250. Staff would propose to fund the additional funds by transferring from the water and sewer operating fund.

ACTION REQUESTED:

Approval to execute the contract for engineering services with W.K. Dickson & Co., Inc. in the amount of \$49,600.00.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to execute the contract for engineering services with W.K. Dickson & Co., Inc. in the amount of \$49,600.00

Motion to approve Revised Capital Project Ordinance Related to Capital Improvements for the Denver Global Products, Inc. (Category A Public Infrastructure) - Martha Lide presented the following:

It is recommended that the Board approve the budget and the revised Capital Project Ordinance concerning public water and sewer improvements related to the Denver Global Products, Inc. project. The revised total budget for this project is \$958,852, which includes a \$406,900 Rural Economic Development Center Grant, a \$511,052 grant from the NC Department of Commerce, CDBG Grant program and a \$40,900 County match from the Lincoln County Water and Sewer Funds. Approval of this revised Ordinance is a requirement of the grant funding agencies.

The Board originally approved a Capital Project Ordinance for this project in March 2013. Since that time, we have been notified that the CDBG portion of the budget would be increased by \$103,802, from \$407,250 to \$511,052 to cover increase project costs. The Rural Center Grant and Local match funding for the project have not changed.

The budget for the public portion of the Denver Global Products, Inc. project is as follows:
Revenues:

NC Rural Center EIF Grant	\$406,900
NC Department of Commerce CDBG Grant	511,052
Local Match – General Capital Projects Funds	40,900
Total	<u>\$958,852</u>

Expenditures:

Water Improvements	\$395,650
Sewer Improvements	305,000
Administration	30,000
Engineering	105,098
Permitting, Inspection, Other and Contingency	123,104
Total	<u>\$958,852</u>

Attached is a detailed budget breakdown and map showing proposed improvements.

**CAPITAL PROJECT ORDINANCE RELATED TO
CAPITAL IMPROVEMENTS FOR THE DENVER GLOBAL
PRODUCTS INC. PROJECT
(CATEGORY A PUBLIC INFRASTRUCTURE)**

BE IT ORDAINED by the Board of County Commissioners of Lincoln County, North Carolina, that, pursuant to North Carolina General Statute Section 159-13.2, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the construction of a water and sewer infrastructure to be financed by a grant from the North Carolina Economic and Rural Center Economic Infrastructure Grants Program, a Community Development Block Grant and funds from the Lincoln County Water and Sewer Fund.

Section 2. The County Manager is hereby directed to proceed with the capital project within the terms of the grant documents, and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

NC Rural center EIF Grant	\$406,900
NC Department of Commerce CDBG Grant	511,052
Local Match – General Capital Projects Funds	40,900
Total	<u>\$958,852</u>

Section 4. The following expenditures are appropriated for the project:

Water Improvements	\$395,650
Sewer Improvements	305,000
Administration	30,000
Engineering	105,098
Permitting and Contingency	123,104
Total	<u>\$958,852</u>

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant

agreements, and federal regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted ____ of October 2013

Denver Global Products, Inc. Project Public Infrastructure				
Cost Description	Revised Budget			
	Rural Center	Local	CDBG	Total Cost Amount
Construction costs:				
Water:				
Clearing and Grubbing			\$11,000	\$11,000
12" Water main Pvc 3910 LF	\$174,967		\$79,183	\$254,150
12" Water main, Restrained 340LF				
12" Joint pipe			\$25,500	\$25,500
Fire Hydrants -10			\$10,000	\$10,000
20" Encasement Pipe			\$85,000	\$85,000
Rock			\$10,000	\$10,000
			\$220,68	
Total Water	\$174,967	\$0	3	\$395,650
Sewer:				
Clearing and Grubbing			\$35,000	\$35,000
8" Gravity Sewer Main 3000 LF	\$170,897		\$9,103	\$180,000
Railroad Bore Encasement Pipe			\$22,500	\$22,500
Creek Crossing Bore			\$22,500	\$22,500
Manholes 4			\$35,000	\$35,000
Rock			\$10,000	\$10,000
			\$134,10	
Total Sewer	\$170,897	\$0	3	\$305,000
Construction Sub -Total	\$345,864	\$0	6	\$700,650
Contingency	\$10,434		\$59,631	\$70,065
Engineering Design		\$40,900	\$64,198	\$105,098

Permitting				
Inspections	\$39,602		\$2,437	\$42,039
Easements	\$5,000			\$5,000
Legal	\$6,000			\$6,000
Planning /Admin CDBG		\$30,000		\$30,000
		\$156,26		
Administration Sub-Total	\$61,036	\$40,900	6	\$258,202
			\$511,05	
TOTAL PROJECT COST	\$406,900	\$40,900	2	\$958,852
Status of Funding	Pending	Secured	Secured	

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Revised Capital Project Ordinance Related to Capital Improvements for the Denver Global Products, Inc. (Category A Public Infrastructure).

Motion to approve the grant agreement with the North Carolina Department of Commerce for a grant in the amount of \$511,052 for Water and Sewer Improvements needed for a new manufacturing facility to be constructed by Denver Global Products, Inc. - Martha Lide presented the following:

It is recommended that the Board approve the grant agreement with the North Carolina Department of Commerce for a grant in the amount of \$511,052 for Water and Sewer improvements needed for a new manufacturing facility to be constructed by Denver Global Products, Inc. This grant, along with a \$406,900 grant from the NC Rural Center and a \$40,900 local match will allow us to construct 4,250 feet of water line and 3,000 feet of sewer line for the new facility. The required local match was budgeted in the Capital Improvement fund in 2012-13.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the grant agreement with the North Carolina Department of Commerce for a grant in the amount of \$511,052 for Water and Sewer Improvements needed for a new manufacturing facility to be constructed by Denver Global Products, Inc.

Motion to Award Purchase and Installation of Financial, Human Resources, and Utility Software to Tyler Technologies – Deanna Rios presented the following:

It is recommended that the Board approve the agreement with Tyler Technologies for the purchase and installation of their “Munis” Financial, Human Resources, and Utility software. We have struggled with the shortcomings of our current software for several years. It has been discussed in the annual Commission goal setting workshop sessions for the past two years. This is a multi-year project, with additional funding planned, but not yet approved, in FY 15.

Lincoln County has utilized New World Systems Financial, Human Resources and Utility software platform since 1989. While the software has served us well in the past, it is time to move to a more modern platform that will increase efficiency, and offer updated features and functionality that better match the

County's current goals and business practices.

The following are justifications for obtaining new financial software for the County:

- We have recurring problems with customer support, which causes long turnaround times for resolving issues and slow updates for required state mandated processes.
- Our current software utilizes the “green screen” platform which is outdated and difficult to use.
- The current system does not provide our department directors, managers and HR staff with the access to data and reporting capabilities necessary to operate most efficiently. The proposed software has self-service features which could improve the department’s ability to process many tasks independent of IT staff assistance.
- Our financial reporting software has not been updated to perform certain transactions which are now considered standard in new software. It does not contain project fund accounting or pooled equity fund functions. Vendor tracking is cumbersome. The accounts payable function does not allow for error corrections. The requisition and purchase order portion of the software is limited, which makes tracking and accounting difficult.
- The HR software is missing important payroll functions. It cannot easily process garnishments or insurance refunds. Also, there are no built-in tracking features for Family Medical Leave Absences (FMLA), or employment applications.
- There are difficulties with the Water & Sewer Utility package interface in our current software. Batches are lost or posted incorrectly. The creation of new accounts and termination of accounts is difficult to use. Inactive water meters are not tracked, leading to lost revenue and the potential for customer service problems.

The County followed our standard process for selecting a new software vendor:

- In April 2013, we issued Request for Proposal 2013-0502 for FM & HR Software. The RFP was mailed to vendors that we knew provided this service in North Carolina and throughout the Country. The RFP was also posted on the County’s website.
- The RFP included software for Financial Management and Human Resources management; vendors were asked to submit pricing for optional software modules provided by their company (Utilities, Work Orders, Fixed Assets).
- The proposal due date was May 2, 2013. Responses were received from the following four vendors:
 - New World Systems
 - Keystone Information Systems
 - Tyler Technologies
 - Sungard H.T.E.
- Sungard H.T.E. responded that they were not interested in responding to our RFP because their utility module was not ready, which left three proposals for review.
- A committee consisting of staff from the County Manager’s Office, Finance, HR, IT and Public Works met to review proposals.
- In late June, all three companies were invited to give a four hour demonstration of their software.
- Keystone Information Systems was removed from consideration after previewing the software as it was determined that they were not fully compliant with the RFP as their product does not offer a complete Microsoft Windows solution.
- Staff then visited the City of Newton, which is currently utilizing New World Systems Logos.net, and Iredell County, which is currently utilizing Munis.
- Staff also contacted references for both remaining companies.

Following the review of proposals, demonstrations by the vendors, site visits and reference checks, the Committee recommends that the Board approve the attached agreement with Tyler Technologies for the purchase and installation of their “Munis” Financial, Human Resources, and Water & Sewer Utility software. Some significant points the Committee took under consideration were:

- The “Munis” package supplied by Tyler is currently operating in 49 out of 100 Counties in

North Carolina, and numerous municipalities. This assures a very active user network which will provide us with support and advice that addresses our financial and HR needs. There have been difficulties and delays with New World modifying their software to incorporate State required reports (Ex: Orbit)

- The “Munis” reporting package was more intuitive and easier to manipulate.
- The “Munis” requisition and purchasing package met our service requirements better than the New World package.
- The project tracking module provided by the “Munis” software included a multiyear tracking feature which was not available though the New World Software.
- Customer support is critical for this software change. Reference checks revealed that “Munis” Customer support is excellent.
- The “Munis” software would result in a \$26,494 savings over a five year period, which includes all modules we would like to purchase, installation and maintenance. Because this is a small amount, the pricing factor was weighted low in our deliberations (attached is a five year comparison of New World and “Munis”).

The total cost of implementing the new software across two fiscal years will be \$527,371 (see attached Implementation Costs Spreadsheet). The capital costs are estimated to be \$323,762 in 2013-14 and \$203,609 for 2014-15, of which only \$135,000 is budgeted at present. The new Munis software will require maintenance payments of \$12,969 in 2013-14 and \$51,877 in 2014-15. Our previous software, New World Systems, has a required annual maintenance fee of \$60,210. These costs are higher than initially planned or anticipated, but staff believes it is essential to purchase and implement this software package in order to have it in place in time for the start of FY15 Budget.

There are a few options for funding the purchase:

1. The additional capital funding of \$188,762 over the budgeted capital funds for 2013-14 (\$135,000) could be taken from fund balance. This will reduce our fund balance amount, but we still should be within our fund balance policy.
2. The additional capital funding can be included in an upcoming Installment Purchase issuance and financed over 10 years. This would spread the cost of the purchase over several years, but will require us to include it in the 2014 debt issuance. Not all banks like to finance an intangible like software.
3. The additional capital funding can be financed through an outside company for 59 months or less.
This option is not recommended as the interest rate is higher than an Installment Purchase.

Commissioner Klein questioned where this money would be coming from.

Deanna Rios suggested taking the balance from the fund balance.

Commissioner Klein stated that he would like to take a real good stab at some hard, calculable savings rather than you can do this faster and better. He said that doesn't translate into hard dollars. He said the financing option doesn't sound very good to him and he would prefer to look at the multi pages of capital improvement items for 2014 and even if we have to find the money there.

Tracy Jackson said it's tough to put a tangible number on potential savings with this purchase, because you are talking about more efficiency not only with Finance but between departments.

Commissioner Robinson said with software this old, it can just die and the vendor is not required to repair it. He said he is in favor of moving forward, looking for alternate ways to fund it other than the fund balance, and if nothing can be found, then leveraging the fund balance.

Chairman Patton said no company would be using software from the 1980's.

There was a discussion as to whether this purchase could wait until next budget year and the fact that the price of the software may go up if this is not approved since they have held the price already.

A MOTION by Commissioner Robinson to move forward with the purchase of software but also ask the County Manager to look for that \$180,000 in other areas and as a last resort, pull it from fund balance.

Commissioner Klein said he would prefer to have that investigation done before voting on this and will vote against it.

VOTE: 2 – 2 AYES: Patton, Robinson
NOES: Mitchem, Klein

Commissioner Klein asked Martha Lide, Assistant County Manager, if the Special Events/Mass Gatherings Ordinance is being held up, because he can change his vote if needed.

Ms. Lide commented that people are complying with this already so it is not urgent. She said this can be added to the next agenda.

Closed Session: **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to enter Closed Session pursuant to NCGS § 143-318.11. Closed sessions.(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.

The Board returned to Open Session and Chairman Patton announced no action was taken in Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners