

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, FEBRUARY 17, 2014

The Lincoln County Board of County Commissioners met February 17, 2014 at the Citizens Center, Board of 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
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

Call to Order: Chairman Patton called the February 17, 2014 meeting of the Lincoln County Board of Commissioners to order and led in an Invocation.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, February 17, 2014
6:30 PM

James W. Warren Citizens Center
115 West Main Street
Lincolnton, North Carolina

Call to Order

Invocation – Chairman Patton

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda

- Motor Vehicle Refunds Over \$100
 - Budget Ordinance Amendment #5
 - Sponsored Group Status
 - First Baptist Church
 - Waived Fees
 - Rotary Auction
 - Airport Grant Acceptance
 - Surplus Vehicle
3. Planning Board Recommendations - Randy Hawkins
 - ZMA #606 Pure Waterman, LLC, applicant
 - ZMA #607 Janet Cox, applicant
 - CUP #332 Kenneth and Ginger Dodgin, applicants
 - CUP #333 Diamond Towers IV, LLC, applicant
 4. Public Hearing - Leash Law for Worthington Park Subdivision - Ron Rombs
 - Ordinance #2014-1: Ordinance Amending Chapter 92.08 of the Lincoln County Code of Ordinances Concerning Leash Laws
 5. Road Naming Public Hearing for Sutton Lane - Netta Anderson
 6. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
 7. Presentation of Voting System and motion to accept voting system - Chris Andrews and Bradley Putnam
 8. Request for new position for Elections Department - Bradley Putnam
 9. Motion to Approve Contract with Evans and Associates Consulting Group Inc. for Business Personal Property Audits - Kep Kepley
 10. Resolution #2014-9: Resolution Ordering the Advertisement of Delinquent Real Estate Property Tax Liens
 11. Approval of FY 2014 Audit Contract with Martin Starnes and Associates - Deanna Rios
 12. Motion to seek an engineering proposal for the preliminary design and cost analysis phase of a possible Water Treatment Plant Expansion - Mike Neff
 13. Discussion of Rescue Squad Park - Don Chamblee and Erma Deen Hoyle
 14. Finance Officer's Report - Deanna Rios
 15. County Manager's Report
 16. County Commissioners' Report
 17. County Attorney's Report
 18. Vacancies/Appointments
 19. Calendar
 20. Other Business

- Register of Deeds Report
- Property Tax Collection Report

21. Closed Session Pursuant to NCGS § 143-318.11

(a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

Adjourn

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

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

- Motor Vehicle Refunds Over \$100
- Budget Ordinance Amendment #5
- Sponsored Group Status
 - First Baptist Church
- Waived Fees
 - Rotary Auction
- Airport Grant Acceptance
- Surplus Vehicle

Recommendations from Planning Board:

Randy Hawkins presented the following recommendations:

ZMA #606 Pure Waterman, LLC, applicant (Parcel ID# 25459 and 25460) A request for a rezoning of 0.78 acre from R-T (Transitional Residential) to O-R (Office Residential). The property is located at 3813 NC 73 Hwy., on the north side of N.C. 73 about 800 feet east of Amity Church Road in Ironton Township.

The Planning Board voted 7-0 to recommend approval.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve the Statement of Consistency and Reasonableness as presented by the Planning Board.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the rezoning request.

ZMA #607 Janet Cox, applicant (Parcel ID# 30490) A request for a rezoning of 0.95 acre from RSF (Residential Single-Family) to O-R (Office Residential). The property is located at 4287 N. NC 16 Hwy., on the west side of N.C. 16 Business about 500 feet south of Mundy Road, in Catawba Springs Township.

The Planning Board voted 7-0 to recommend approval.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the Statement of Consistency and Reasonableness as presented by the Planning Board, for ZMA 607.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve the rezoning request for ZMA 607.

CUP #332 Kenneth and Ginger Dodgin, applicants (Parcel ID# 55125) A request for a conditional use permit to host weddings and other special events in the R-T (Transitional Residential) district.

The proposed 16.7-acre site is located on the south side of Asbury Church Road about 300 feet west of Old Mill Road in Ironton Township.

The Planning Board voted 3-3 against recommending approval with the following conditions:

- 1) No live bands shall be permitted. No amplified music shall be permitted after 10 p.m.**
- 2) Events shall be limited to weddings only and to no more than 15 per year.**
- 3) All events shall end by 11 p.m.**

Wesley Deaton advised the Board that the Clerk had been approached prior to the meeting by the applicant requesting additional information be presented. He said this would require the public hearing to be reopened. He said a letter addressed to the Board was at each Commissioner's seat when he came in and he took them up since the Board cannot accept additional information after the public hearing is closed.

Findings of Fact

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan.

Factual reason cited: Adequate parking on-site, driveway is 500 feet from intersection, should meet all requirements for entering and exiting.

A MOTION by Commissioner Klein to approve the Planning Board's recommendation based on the reasons provided by the Planning Board. Unanimously approved.

2. The use meets all required conditions and specifications.

Factual reason cited: Private outdoor recreation includes weddings and other special events.

A MOTION by Commissioner Robinson to find approve Finding of Fact 2 as presented by the Planning Board. Unanimously approved.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.

Factual reason cited: Very limited use, Property adjoins airport. Conditions: no live bands, no amplified music after 10 p.m., limited to 15 events per year, limited to weddings only.

A MOTION by Commissioner Mitchem to find fact 3 in the affirmative, due to the fact that it will not harm surrounding property values, based on the Planning Board's findings based on no live bands and no amplified music after 10 p.m.

Commissioner Robinson suggested keeping the weddings only since the applicant agreed to it.

VOTE: 2 – 3

AYES: Mitchem, Martin

NOES: Robinson, Patton, Klein

A MOTION by Commissioner Robinson to find fact 3 in the affirmative, due to the fact that it will not harm surrounding property values, based on the Planning Board's findings based on no live bands and no amplified music after 10 p.m. and limited to weddings only.

VOTE: Unanimously approved.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

Factual reason cited: It is a natural area and recreation is common in this type of residential area.

A MOTION by Commissioner Robinson to approve Fact No. 4 based on the fact that it is a natural area and recreation is common in this type of residential area. Unanimously approved.

After having held a Public Hearing on February 3, 2014, and in light of the findings of fact listed herein, the following action was taken by the Lincoln County Planning Board: That they pass this on to the commissioners with an unfavorable recommendation based upon the findings of fact.

Conditions:

1. No live bands shall be permitted.
2. No amplified music shall be permitted after 10:00 p.m.
3. Limited to weddings only

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Conditional Use Permit #332 based on the Findings of Fact with the conditions as they apply.

CUP #333 Diamond Towers IV, LLC, applicant (Parcel ID# 72161) A request for a conditional use permit to erect a 250-foot wireless telecommunications tower in the R-SF (Residential Single-Family) district. The proposed 53-acre site is located at 1268 Owls Den Road, on the east side of Owls Den Road about one mile south of Reepsville Road, in Howards Creek Township.

The Planning Board voted 7-0 to recommend approval.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve Conditional Use Permit #333 based on the Findings of Fact presented by the Planning Board.

Public Hearing – Leash Law for Worthington Park Subdivision: Ron Rombs presented a petition for a Leash Law for Worthington Park Subdivision.

This is a request from Worthington Place Subdivision, requesting to be added to the Animal Services Leash Law Ordinance. There are 27 parcels listed in the subdivision and the petition has 18 entries. All 18 entries have been confirmed by Lincoln County Animal Services staff. With 18 respondents represented, the petitioners have succeeded in obtaining 50% acceptance from the residents within Worthington Place Subdivision.

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

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the leash law for Worthington Park as presented.

**ORDINANCE AMENDING CHAPTER 92.08 OF THE LINCOLN COUNTY CODE OF
ORDINANCES CONCERNING LEASH LAWS**

THAT WHEREAS, the Board of Commissioners previously have adopted an ordinance concerning Animal Control issues including leash laws for subdivisions; and

WHEREAS, Worthington Park Subdivision has submitted a request to be added to the Lincoln County Leash Law; and

WHEREAS, according to plot map PIN# 3644-00-15-2451 and 3644-00-15-6422, there are a total of 27 partials within the Worthington Park Subdivision; and

WHEREAS, the petition has a total of 18 entries, 18 of which have been confirmed; and

WHEREAS, the petitioners have succeeded in obtaining the required 50% acceptance of the residents in Worthington Park Subdivision to include this subdivision in the Lincoln County Animal Control Ordinance Leash Law.

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

That Chapter 92.08 (a) of the Lincoln County Code of Ordinances is hereby amended to add Worthington Park to the list of subdivisions approved for leash law.

That the provisions of this ordinance shall become effective immediately upon its adoption.

Adopted this the 17th day of February, 2014.

Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk to the Board

Road Naming Public Hearing for Sutton Lane – Netta Anderson presented the following:

This road is located off of Long Shoals Rd and requires naming due to the fact that there is going to be three (3) structures that access Long Shoals Rd via this private road. The name proposed is **Sutton Lane** and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened public hearing.

Being no speakers, Chairman Patton closed the public hearing.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the road name Sutton Lane.

Public Comments: Chairman Patton opened public comments.

Patty Korn, 3165 Lakeshore Road South, asked for an ordinance concerning throwing newspapers in yards without subscriptions. She said many homeowners don't pick up newspapers and this can be a safety issue.

Rudy Bauer, 8252 Blades Trail, said rules are not kept that are placed on people. He said illegal signs, illegal putting cars for sale in front of buildings, somebody should be in charge of enforcing conditions placed by the County.

Robert Avery, 4466 Hwy. 182 West, asked for a county survey for taxpayers.

Don Hemingway with Carolina Recreation, spoke concerning the bidding process for the West Lincoln Splash Pad and said they will file a letter of protest tomorrow.

Being no additional speakers, Chairman Patton closed public comments.

Presentation of Voting System and motion to accept voting system – Chris Andrews and Bradley Putnam:

Bradley Putnam, Director of Elections, said the Board viewed some voting machines downstairs earlier this evening. He said to keep in mind that the Board is not voting for a certain company or vendor, but just the DS200 equipment, which is the only licensed optical scanner for North Carolina.

UPON MOTION by Commissioner Robinson, the Board voted 4 – 1 (Klein against) to approve the DS200 voting equipment.

Request for New Position for Elections Department: Bradley Putnam said in 2002, Board of Elections was staffed with 4 full time and 1 part time positions. One of those positions was cut, but with House Bill 489, there is so much more mandated with Board of Elections. He said he pulled the survey from School of Government and most are already running at 4 full time and 2 part time positions. Lincoln County has 3 full time and 1 part time positions. His request is to take the Elections Office to 4 full time and 1 part time.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve Resolution #2014-9 as written.

**RESOLUTION #2014-9:
RESOLUTION TO AMEND THE CLASSIFICATION AND COMPENSATION PLAN FOR LINCOLN
COUNTY, NORTH CAROLINA**

WHEREAS, the Board of County Commissioners previously has adopted a Classification and Compensation Plan for Lincoln County, North Carolina, which was prepared by Condrey and Associates, Inc.; and

WHEREAS, the County Manager is charged with assuring the Plan remains current and up to date; and

WHEREAS, a review of the current job duties resulted in the need to develop a new job description titled Elections Coordinator. The proposed attached job description better reflects the responsibilities and duties which were being performed and the changes have been reviewed with staff and approved by the County Manager.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the Classification and Compensation Plan for Lincoln County, North Carolina is hereby amended to include the attached Elections Coordinator job description.

The creation of the job description of Elections Coordinator is to better reflect the responsibilities and duties that are essential to comply with House Bill 589.

That this amendment shall become effective on _____.

Adopted this _____ day of _____ 2013.

LINCOLN COUNTY

By: _____

Alex Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

Motion to Approve Contract with Evans and Associates Consulting Group Inc. for Business Personal Property Audits: Kep Kepley presented a request for the Board to approve a contract with Evans and Associates, a firm used with business personal property compliance reviews. The reason for the amendment is due to legislation that changes where we can longer pay on a contingency fee basis. This is a contract amendment to go to a flat fee instead of contingency fees.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to approve the contract with Evans and Associates.

Resolution #2014-10: Resolution Ordering the Advertisement of Delinquent Real Estate Property Tax Liens: Kep Kepley asked the Board to approve the following Resolution asking for permission to run the listing of delinquent tax liens in the newspaper.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution #2014-10: Resolution Ordering the Advertisement of Delinquent Real Estate Property Tax Liens.

Resolution #2014-10: Resolution Ordering the Advertisement of Delinquent Real Estate Property Tax Liens

THAT WHEREAS, NCGS 105-369(a) requires the Tax Administrator to report to the Board of Commissioner the delinquent tax liens on real property; and

WHEREAS, the same statute requires the Board of Commissioners to order that these liens be published one (1) time between March 1 and June 30; and

WHEREAS, the Tax Administrator has submitted said listing of the delinquent tax liens on real property;

NOW, THEREFORE, BE IT RESOLVED by the Lincoln County Board of Commissioners that the Tax Administrator is hereby ordered to publish the list of delinquent tax liens on real property.

Passed and adopted this the 17th day of February, 2014.

Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk

Approval of FY 2014 Audit Contract with Martin Starnes and Associates: Deanna Rios presented the following:

This request is for approval of the FY 2014 audit contract with Martin Starnes and Associates. Martin Starnes and Associates has audited both the County and the Airport Authority in the past, and this is the third year of the current three year contract. Funds are budgeted for this in the current budget.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve the FY 2014 Audit Contract with Martin Starnes and Associates.

Motion to seek an engineering proposal for the preliminary design and cost analysis phase of a possible Water Treatment Plant Expansion: Mike Neff, Senior Utility Engineer, presented the following information:

BACKGROUND

Lincoln County Board of Commissioners requested that the department of Public Works provide a summary of the permitting timeline for the expansion of the water treatment plant from 3.99 MGD to 8.0 MGD.

Preliminary Design & Cost Analysis – 4 months

Staff would select a firm to determine a preliminary design and schedule of the expansion and establish a cost of the project including permitting fees, engineering fees and construction costs.

Firm selection, Contract for design & Funding – 4 months

Upon completion of the preliminary design and cost analysis staff would present the information and recommendation to the board for direction of the project. If feasible and approved staff will begin a firm selection process and negotiate a fee for the permitting, construction plans and specifications process.

Permitting, Construction Plans & Specifications – 12-24 months

Permitting for the project includes the review of the Environmental Assessment (EA) and Engineer's Report (ER) by North Carolina Department of Environmental and Natural Resources (NCDENR) for compliance with of both the State and National Environmental Policy Acts (SEPA & NEPA). The engineer will also have to update the existing Water system Management

Plan (WSMP), Local Water Supply Plan (LWSP), Operation and Maintenance Plan (O&MP) and Emergency Management Plan (EMP) with NCDENR.

In addition, the Federal Energy Regulatory Commission (FERC) approvals and the withdrawal agreement with Duke Energy Carolinas, LLC will need to be updated and approved for the additional withdrawal from the lake. Currently the permit allows for a maximum withdrawal of 5 million gallons a day (MGD) and with the plant expansion the County will need a minimum of 8 MGD.

Once major questions and responses with NCDENR and other agencies on the items above have been resolved the engineer will begin the construction drawings and specifications for submittal to NCDENR for approval to construct the project.

Bidding & Construction – 15 months

Once the construction plans and specifications are complete and permits are obtained the project will be advertised for bid by contractors. Upon award of the contract by the County Commissioner's the project will take approximately 12 months to complete construction.

RECOMMENDATION

Staff recommends seeking an engineering proposal for the Preliminary Design & Cost Analysis phase of a possible Water Treatment Plant expansion.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve as recommended by Mr. Neff.

Chairman Patton updated the Board on discussions with the City concerning the purchase of water.

Discussion of Rescue Squad Park – Don Chamblee and Erma Deen Hoyle: Don Chamblee gave an update on the Rescue Squad Park.

On January 23, 2014, Lincoln County Public Works and Lincoln County Parks and Recreation held a bid opening for Rescue Squad Park.

Rescue Squad Park's development is partially funded by a \$352,432 PARTF grant. The minimum local match for the initial construction phase will be funded by the Denver/Lake Norman Rotary Club Foundation (Denver Rotary Fund). Phase I of this new park will provide active field areas, walking trails, playground and multipurpose shelter. The future phases will include a dog park and concession/restroom building.

There is \$1,306,864.00 designed for the project as detailed below.

Designated Funding Breakdown:

\$352,432	PARTF
\$352,432	Denver Rotary Fnd (Local Match)

\$400,000	Denver Rotary Fnd (Estimated Additional)
\$162,000	Lincoln County CIP for Multipurpose Shelter
\$40,000	Lincoln Charter School

Options for Consideration:

Request that the Board of Commissioners award the contract to the Lowest Responsive Bidder of Matthews Construction Company, Inc. for the construction of Rescue Squad Park in the amount of \$1,797,000.00 with a contingency of \$80,000.00. This base contract amount includes all grading, storm drainage, utilities, irrigation, fields, trails, gravel parking, lowering & paving Galway Lane, and multipurpose shelter.

Additional options for consideration:

A) Concession Building	\$263,200.00
B) Dog Park	\$27,100.00
C) Synthetic Turf Grass and Soccer Field	\$699,000.00
D) Paving Parking Lot in Lieu of Gravel	\$115,487.00

These alternatives are included in this design package, so all elements are ready for construction as additional funding becomes available.

Action Requested:

Request that the Board of Commissioners award the contract to the Lowest Responsive Bidder of Matthews Construction Company, Inc. for the construction of Rescue Squad Park in the amount of \$1,797,000.00 with a contingency of \$80,000.00 and Option D) Paving Parking Lot in Lieu of Gravel \$115,487.00. Total Contract/Contingency Amount of \$1,992,487 of which \$162,000 is currently budgeted by Lincoln County. An additional \$685,623.00 is needed to fund the project as recommended.

Additionally, authorize the Board Chairman or County Manager to execute Change Orders for any additional work that have been fully funded and deposited to Lincoln County. This will allow quick approval of any alternates that may become funded during construction and not delay the project.

Commissioner Klein asked if the County is down for \$150,000 or for a multi-purpose building.

Mr. Jackson outlined the County's options as far as financing the amount, taking the money from fund balance, delaying other projects, taking from the general fund, or additional fundraising options. His advice was to talk about it some more and get into the budget process to see where the County will be next year. He said they are not really in a good position to say what dollar amount they could recommend.

Tim Holder encouraged the Board to proceed and fund the project.

The Board asked about pulling the shelter out of the bid and moving forward with the project and decided to wait until the next meeting to discuss further.

Finance Officer's Report: Deanna Rios presented the Finance Officer's Report.

County Manager's Report: Nothing reported.

County Attorney's Report: Nothing reported.

County Commissioners' Report: Nothing reported.

Closed Session: UPON MOTION by Commissioner Robinson, the Board voted unanimously to enter Closed Session pursuant to NCGS § 143-318.11 Closed Session Pursuant to NCGS § 143-318.11(a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

The Board returned to open session and Chairman Patton announced that 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