

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 1, 2014

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on December 1, 2014, at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chairman
Bill Beam, Vice Chairman
Martin Oakes
Cecelia Martin
Alex Patton

Planning Board Members Present:

Christine Poinsette, Chairman
Darrell Gettys, Vice-Chairman
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
Floyd Dean
Jamie Houser
Keith Johnson
Brian Rabalais

Others Present:

W. Tracy Jackson, County Manager
Wesley Deaton, County Attorney
Amy S. Atkins, Clerk to the Board
Fred Hatley, Clerk of Court

Call to Order: Tracy Jackson, County Manager, called the December 1, 2014, meeting of the Lincoln County Board of Commissioners to order and welcomed everyone.

Invocation: Commissioner Patton gave the Invocation and led in the Pledge of Allegiance.

INDUCT BOARD OF COMMISSION MEMBERS

By Fred Hatley, Clerk of Court
Bill Beam
Martin Oakes

Fred Hatley, Clerk of Court, administered the Oath of Office to the newly elected Commission members, Bill Beam and Martin Oakes.

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

I, Bill Beam, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

I, Bill Beam, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, Bill Beam, do further swear (or affirm) that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Bill Beam

Subscribed and sworn to before me this 1st day of December, 2014, as witness my hand.

Fred Hatley, Clerk of Court

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

I, Martin Oakes, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

I, Martin Oakes, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

I, Martin Oakes, do further swear (or affirm) that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

Martin Oakes

Subscribed and sworn to before me this 1st day of December, 2014, as witness my hand.

Fred Hatley, Clerk of Court

Election of Chair: Tracy Jackson opened the floor to nominations for Chairman. Commissioner Beam nominated Commissioner Carrol Mitchem as Chairman.

Mr. Jackson called for a vote for Commissioner Mitchem as Chair: Unanimously approved.

Election of Vice Chair: Chairman Mitchem conducted the election of Vice Chairman.

Commissioner Oakes nominated Commissioner Beam for Vice Chairman.

Chairman Mitchem called for votes for Commissioner Beam: Unanimously approved.

Induct Register of Deeds: Fred Hatley, Clerk of Court, administered the Oath of Office to Danny Hester, Register of Deeds.

Recognition of Sheriff David Carpenter: Chairman Mitchem recognized Sheriff David Carpenter.

Approval of Bond for Sheriff and Register of Deeds: **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Bond for the Sheriff and Register of Deeds.

Recognition of Commissioner Service: Commissioner Patton presented a plaque to outgoing Commissioner Carl Robinson.

Commissioner Robinson thanked everyone for their support of him during his term as Commissioner.

Chairman Mitchem called for a recess and announced that the meeting would resume in the Commissioner's Room on the third floor.

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

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

DECEMBER 1, 2014

Call to Order - Tracy Jackson, County Manager
Invocation – Commissioner Patton
Pledge of Allegiance

Induct Board of Commission Members
By Fred Hatley, Clerk of Court
Bill Beam
Martin Oakes

Seating of Board
Election of Chair
Election of Vice-Chair

Induct Register of Deeds Danny Hester
By Fred Hatley, Clerk of Court

Approval of Bond for Sheriff and Register of Deeds

Recognition of Sheriff David Carpenter

Recognition of Commissioner Service

Public Congratulations – The Board will recess for public congratulations and reconvene in the Commissioner's Room on the Third Floor.

1. Adoption of Agenda
2. Adoption of Rules of Procedure

3. Consent Agenda

- Tax Requests for Releases
 - October 16 - November 15, 2014
- CDBG Status Updates
- Approval of Minutes
- Surplus Property
- Waived fees
 - Deployment Ceremony for Alpha Battery, 1-113th Field Artillery
 - BPW - Apple Queen Pageant

4. New Business/Advertised Public Hearings

ZMA #611 Robert Klinger, applicant (Parcel ID# 31890 and 75066) A request to rezone 4.0 acres from R-SF (Residential Single-Family) to B-N (Neighborhood Business). The property is located at 1853 N. NC 16 Hwy., on the west side of N.C. 16 Business at Woodhill Cove Lane, in Catawba Springs Township.

ZMA #612 JVP Fit Enterprises, LLC (Parcel ID# 74083 and 33425) A request to rezone 1.8 acres from I-G (General Industrial) and B-N (Neighborhood Business) to B-G (General Business). The property is located at 3273 N. NC 16 Hwy., on the south side of N.C. 16 Business about 300 east of Denver Drive, in Catawba Springs Township.

PD #2010-2-A Baylor Properties Corp., applicant (Parcel ID# 34171) A request to modify a master plan for a mixed-use development. The approved master plan for the Cottonwood Village development calls for 252 multi-family dwelling units and 96,800 square feet of office/commercial space. The proposed new plan calls for 254 multi-family dwelling units, 60,000 square feet of office/commercial space, and a hotel. The request involves a 31-acre site located about 500 feet south of N.C. 73 and 700 feet west of N.C. 16 Business and bordering Advance Avenue, South Little Egypt Road and N.C. 16 Bypass, in Catawba Springs Township.

- 5. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
- 6. Project Jim Update - Cliff Brumfield and Kara Brown
- 7. Exemption from RFQ Process for the evaluation and limited repair to the exterior panels of the Citizens Center and Bank of America Buildings - John Henry

8. Motion to Approve Contract to provide Architectural Services by Stewart Cooper Newell (SCN) for relocating the Health Department to the old hospital - Don Chamblee
9. Discussion concerning Construction and Demolition Debris at Convenience Sites
10. ~~Resolution Amending the Order Adopting the Schedule of Values
Commissioner Oakes~~
11. Enter Closed Session pursuant to NCGS § 143-318.11. Closed sessions.
 - (a) (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
12. Other Business
Adjourn

* This meeting will begin in the Auditorium *

UPON MOTION by Commissioner Martin, the Board voted unanimously to adopt the agenda removing Item 10.

Adoption of Rules of Procedure: Chairman Mitchem presented the Rules of Procedure for the Board to consider.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the Rules of Procedure.

RULES OF PROCEDURE

LINCOLN COUNTY

BOARD OF COMMISSIONERS

I. Applicability

Rule 1. Applicability of Rules. These rules apply to all meetings of the Board of Commissioners of Lincoln County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

II. Open Meetings

Rule 2. Meetings to Be Open.

(a) The public policy of North Carolina and of Lincoln County is that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Lincoln County Board of Commissioners shall be open to the public, and any person may attend.

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Rule 3. Closed Sessions.

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session and exclude the public, but only under the following circumstances:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
2. To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
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. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
4. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including

agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.

5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
6. To consider the qualifications, competence, performance, character, fitness, conditions or appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
7. To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

(b) Repealed by Session Laws 1991, c. 694, s. 4.

(c) Calling a Closed Session – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

(d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 560, s. 2.

III. Organization of the Board

Rule 4. Organizational Meeting. On the first Monday in December following a general election in which county officers are elected, the board shall meet at the regular meeting time and place. The County Manager or the clerk to the board of commissioners shall call the meeting to order and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board

shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from its members. As the third order, the board shall approve the bonds of the register of deeds, and the sheriff, and induct them and any other newly elected county officials into office.

Rule 5. Election of the Chair. The chair of the board shall be elected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a board member.

IV. Regular and Special Meetings

Rule 6. Regular and Special Meetings.

(a) Regular Meetings. The board shall hold a regular meeting on the [first] and [third] [Monday] of each month. If a regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Board of County Commissioners Meeting Room on the Third Floor of the Citizens Center and shall begin at 6:30 PM. The board may change the place or time of a particular regular meeting or of all regular meetings within a specified period by resolution adopted, posted, and noticed at least seven days before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

(b) Special Meetings. The chair or a majority of board members may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and subjects to be considered. The person or persons calling the meeting shall cause the notice to be posted on the principal bulletin boards of the county and delivered to the chair and all other board members or left at the usual dwelling place of each member at least forty-eight hours before the meeting. In addition, the notice shall be mailed or delivered to individual persons and news organizations having requested such notice as provided in subsection (e), below. Only items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed waivers.

(c) Emergency Meetings. If a special meeting is called to deal with an unexpected circumstance requiring immediate consideration, the notice requirements of this rule do not apply. However, the person or persons calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in subsection (e), below, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

(d) Work Sessions and Committee Meetings. The board may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by resolution or order of the board. A schedule of any such meetings held regularly shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings.

(e) Sunshine List. Any individual and any newspaper, wire service, radio station, and television station may file a written request with the clerk to the board of commissioners for notice of all special meetings of the board. Requests by individuals {must be renewed by the last day of each calendar ~~quarter year~~ and} are subject to a \$20.00 non-refundable annual fee; requests by news organizations {must be renewed annually by July 1 and} are not subject to any fee.

Rule 7. All Meetings Within the County. All meetings shall be held within the boundaries of Lincoln County except as otherwise provided herein.

- (1) A joint meeting with the governing board of any other political subdivision of this or any other state may be held within the boundaries of either subdivision as may be specified in the call of the meeting. At any such joint meeting, this board reserves the right to vote separately on all matters coming before the joint meeting.
- (2) A special meeting called for considering and acting on an order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or other such place as stated in the call of the meeting.

Rule 8. Broadcasting and Recording of Meetings.

(a) Except as provided in this rule, any radio or television station may broadcast all or any part of an official board meeting required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official board meeting shall so notify the county manager no later than forty-eight hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the Citizens Center is available, the county manager may require the news media to either pool equipment and personnel or to secure and pay the costs of an alternative meeting site mutually agreeable to the board and the media representatives.

V. Agenda

Rule 9. Agenda.

(a) The clerk to the board shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least *Eleven days (see Clerk's schedule for deadlines)* days before the meeting. Any board member may, by a timely request, have an item placed on the agenda.

(b) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each board member at least *seven* days before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(c) The board may, by majority vote, add an item not on the agenda.

(d) Notwithstanding the foregoing provisions of this rule, any item involving an expenditure in excess of \$1,000 shall not be considered at a meeting unless it is placed on the printed agenda in advance of the meeting, except in the following instances: (1) emergencies that make advance notice impossible or impractical; (2) impending deadlines or other factors which would result in increased cost to the county or delays in a project if not addressed immediately; (3) legal or other deadlines which make a response necessary prior to the date of the next scheduled meeting; or (4) issues on which the Board may need to give directions in closed session as provided in N. C. G. S. 143-318.11 and Rule 3 of these rules.

Any deviation from this rule shall require a motion to suspend this rule pursuant to Rule 20(b)4.

Rule 10. Informal Public Comments. The clerk to the board shall include on the agenda of each regular meeting at least fifteen minutes for comments or questions from the public in attendance. The chair will first recognize individuals or groups having made appointments to be heard, and then may recognize others, subject to available time. The chair may specify the time allotted to each speaker. When the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

Rule 11. Order of Business. At regular meetings, the board shall proceed to business in the following order:

1. Approval of the minutes of the previous meeting.
2. Scheduled public hearings.
3. Action items.
4. Informal public comments.
5. Administrative reports.
6. Committee reports.
7. Unfinished business.
8. Introduction of ordinances, resolutions and orders.
9. Other new business.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

VI. Conduct of Debate

Rule 12. Powers of the Chair. The chair shall preside at all board meetings. To address the board, a member must be recognized by the chair. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion offered for patently obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a brief recess at any time;
4. To adjourn in an emergency.

Rule 13. Presiding Officer When the Chair Is Active in Debate. If the chair wishes to debate a proposal actively, he or she shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

Rule 14. Action by the Board. The board shall proceed by motion. Any member, including the chair, may make a motion.

Rule 15. Second Not Required. A motion shall not require a second.

Rule 16. One Motion at a Time. A member may make only one motion at a time.

Rule 17. Substantive Motion. A substantive motion is out of order while another substantive motion is pending.

Rule 18. Adoption by Majority Vote. A motion shall be adopted if approved by a majority of the votes cast, unless otherwise required by these rules or North Carolina laws.

Rule 19. Debate. The chair shall state the motion and then open the floor to debate, presiding according to these general principles:

- (1) The member making the motion or introducing the ordinance, resolution, or order may speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) If possible, the debate shall alternate between opponents and proponents of the measure.

Rule 20. Procedural Motions.

(a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

(b) In order of priority (if applicable), the procedural motions are:

1. *To Adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
2. *To Recess.*
3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.
4. *To Suspend the Rules.* The motion requires a vote equal to a quorum.
5. *To Divide a Complex Motion and Consider It by Paragraph.*
6. *To Defer Consideration.* A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
7. *To Call the Previous Question.* The motion is not in order until there has been at least twenty minutes of debate and every member has had one opportunity to speak.
8. *To Postpone to a Certain Time or Day.*
9. *To Refer to Committee.* Sixty days after a motion has been referred to committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.
10. *To Amend.* An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.
11. *To Revive Consideration.* The motion is in order at any time within one hundred days of a vote deferring consideration. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.
12. *To Reconsider.* The motion must be made at the same meeting where the original vote was taken, and by a member who voted with the prevailing side. It cannot interrupt deliberation on a pending matter but is in order any time before adjournment.
13. *To Prevent Reconsideration for Six Months.* The motion shall be in order only immediately following the defeat of a substantive motion. It requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

Rule 21. Renewal of Motion. A defeated motion may not be renewed at the same meeting.

Rule 22. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

Rule 23. Duty to Vote. It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member wishing to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative. In the event of the failure of a member to express a vote, the Chairman shall specify for the record any member who failed to express a vote and that such failure shall be recorded as an affirmative vote. The Chairman's action in such event shall be conclusive unless the non-voting member immediately expresses an objection in order to record a negative vote. The Chairman in his discretion may demand a roll-call vote.

Rule 24. Prohibition of Secret Voting. No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, when they may be destroyed.

Rule 25. Action by Reference. The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Rule 26. Introduction of Ordinances, Resolutions, and Orders. A proposed ordinance shall be deemed introduced at the first meeting where it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

Rule 27. Adoption, Amendment, or Repeal of Ordinances. To be adopted at the meeting where it is first introduced, an ordinance or an action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority but not by all the members of the board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within one hundred days of its introduction receives a majority of the votes cast, the measure is adopted.

Rule 28. Quorum. A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Rule 29. Public Hearings. Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

Rule 30. Quorum at Public Hearings. A quorum of the board must be present at all public hearings required by law.

Rule 31. Minutes. To the extent required by N. C. G. S. Sections 153A-42 and 143-318.10(e) and applicable case law, the Clerk shall keep full and accurate minutes of the proceedings of the Board of Commissioners to record actions taken, including the results of each vote, and evidence that such actions were taken according to proper procedures. Upon the request of any member, the ayes and noes upon any question shall be taken and recorded. The minutes shall not become the official record of the Board's actions until they are adopted by the Board. The minutes shall be available for public inspection.

If the Board becomes aware of an error in minutes that have been previously adopted, the Board may correct the minutes. The Clerk shall note any such correction in the minutes of the meeting at which the correction is made and shall place an appropriate notation and cross reference at the place in the minutes where the provision being corrected appears.

With respect to closed sessions of the Board of Commissioners, the Clerk shall keep full and accurate minutes to the extent required by N. C. G. S. 143-318.10(e) and applicable case law and shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such minutes and accounts shall be public records within the meaning of the Public Records Law, N. C. G. S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with N. C. G. S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 32. Appointments. The board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.

The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. After the debate, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.

Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so does not invalidate that member's ballot.

Rule 33. Reference to *Robert's Rule of Order*. To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *RRO* to resolve procedural questions.

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

- Tax Requests for Releases
- October 16 - November 15, 2014
- CDBG Status Updates
- Surplus Property
- Waived fees
 - Deployment Ceremony for Alpha Battery, 1-113th Field Artillery
 - BPW - Apple Queen Pageant

New Business/Advertised Public Hearings:

Zoning Map Amendment No. 611 – Robert Klinger, applicant: Randy Hawkins presented the following information concerning ZMA No. 611.

The applicant is requesting the rezoning of 4.0 acres from R-SF (Residential Single-Family to B-N (Neighborhood Business). The owner of the property has authorized the rezoning request.

This property is located at 1853 N. NC 16 Hwy., on the west side of N.C. 16 Business across from Woodhill Cove Lane. It is adjoined by property zoned R-SF and B-N. Land uses in this area include residential, business and institutional.

The NC 16 Corridor Vision Plan recommends concentrating commercial activities in nodes.

Chairman Mitchem opened the public hearing concerning Zoning Map Amendment No. 611 – Robert Klinger, applicant.

Bob Klinger said his business is currently located on Dove Court in Denver. He said he is here to answer any questions.

Phyllis Edwards, 2474 Twin Creeks Road, said this property backs up to hers. She asked about junked cars being parked on this property.

Peggy Tschudin, said she and her husband own adjoining property and have no objections.

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

Zoning Map Amendment #612 – JVP Fit Enterprises, LLC, applicant: Randy Hawkins presented the following:

The applicant is requesting the rezoning of 1.8 acres from I-G (General Industrial) and B-N (Neighborhood Business) to B-G (General Business). A fitness center is located on the property that is zoned I-G. The property that is zoned B-N has recently been acquired by the center's owner for expansion purposes. However, a fitness center is not a permitted use in the B-N district.

This property is located at 3249 N. NC 16 Hwy., on the south side of N.C. 16 Business about 300 feet east of Denver Drive. It is adjoined by property zoned I-G, B-N and R-SF (Residential Single-Family). Land uses in this area include business, industrial and residential. The NC 16 Corridor Vision Plan recommends concentrating commercial activities in nodes.

Chairman Mitchem opened the public hearing concerning Zoning Map Amendment #612 – JVP Fit Enterprises, LLC, applicant.

Bill Kuletz spoke about the best use of this property and the need for more restaurants and stores in Denver.

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

Randy Hawkins read the list of allowed uses in the General Business District.

PD #2010-2-A Baylor Properties Corp., applicant: Randy Hawkins presented the following:

The applicant is requesting a modification of a master plan for a mixed-use development. The approved master plan for the Cottonwood Village development calls for 252 multi-family dwelling units and 96,800 square feet of office/commercial space.

The proposed modified plan calls for 254 multi-family dwelling units, 60,000 square feet of office/commercial space, and a hotel. A revised plan and a rendering of the proposed hotel are included as part of the application.

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

A traffic impact analysis for Cottonwood Village was submitted in 2010 as part of a rezoning application. A new analysis is not required for the current application because, according to a comparison of trip generation figures, the modified plan would have less of an impact on traffic than the previously approved plan. Based on the 2010 analysis, the developer will be required to make certain roadway improvements as noted on the revised plan.

Mr. Hawkins stated that he received a letter, which was presented for the record, from Triangle Crossroads, LLC concerning flooding in the area.

Commissioner Oakes said he does not have a copy of the traffic study. Mr. Hawkins said he does not have a copy, but has a copy of the trip generation figures, which he presented to the Board. He said he could get the Board the traffic study.

Commissioner Oakes commented on the drainage in this area and the flooding that has occurred in the past.

Keith Johnson, Planning Board member, asked about improvements included in the traffic study.

Todd Burgin, Planning Board member, asked if a new study should be completed since this was completed in 2010. Randy Hawkins stated that they have met with DOT and a new traffic study was not required.

Chairman Mitchem opened the public hearing concerning PD 2010-2-A – Baylor Properties Corp., applicant.

Ron Smolen asked if there has been a provision for emergency and fire equipment for this new 6 story building.

Keith Johnson said he believes East Lincoln Fire Department has the capability to handle a 6 story building.

Ken Moore, owner of Midtown Sundries, said there have been several instances of flooding at the Food Lion parking lot, due to poor drainage at that shopping center. He said all of the water moves west. He said this is a good development and a hotel is a great thing for the area and is well needed.

Phyllis Edwards said she is glad the new hotel is coming, but the problem is with the 4 lane coming off 16 onto 73. She expressed concerns about the traffic and water problems.

Dan Brewer, Engineer for the project, said the traffic study done in 2010 was done for almost 100,000 square feet of office space and this has been lowered to 60,000 square feet of office space. The hotel was originally planned for 180 units and is down to 144. With those counts and consulting with DOT, those original counts went down so there

was no need for another study. He reviewed the improvements included in the plan. He also reviewed the stormwater improvements included.

Todd Burgin asked if 300 homes were put in a mile of this if it would affect the traffic. Mr. Brewer said that he felt it would.

Commissioner Oakes asked if it could be confirmed that the East Lincoln Fire Department's ladder truck could reach the top of this building. Mr. Hawkins said that he has spoken to Tim Tench, who had no concerns about providing fire coverage to the hotel. Mr. Tench asked for the Fire Marshal to review the final plans about access to the hotel.

Commissioner Oakes asked if the county could require a traffic study or if it was solely DOT that could require it. Mr. Hawkins said the county has certain perimeters for requiring a traffic study and DOT does as well. In this case, neither the county or DOT felt it was needed since the traffic study for Trilogy Homes took this development into consideration. Commissioner Oakes reiterated that he was not happy he does not have a traffic study to look at.

Audra Moore said she has been in Lincoln County since 2003 and has seen a need for a hotel in the area. She said there are concerns with the traffic, but it is her understanding that there are timing issues with DOT, not volume issues.

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

The Planning Board reconvened to the second floor balcony to deliberate the cases.

Chairman Mitchem declared a brief recess and called the meeting back to order.

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

Being no speakers, Chairman Mitchem declared the Public Comments section closed.

Project Jim Update: Cliff Brumfield gave an update on Project Jim. He said a letter of credit will come from the industry, not the county. He said he is not requesting any action on this item. He recapped the project the project and said this is very promising for Lincolnton and Lincoln County. He said he will work with Wesley Deaton and the County Attorney to move forward.

Exemption from RFQ Process for the evaluation and limited repair to the exterior panels of the Citizens Center and Bank of America Buildings: John Henry presented the following:

Purchasing is seeking an exemption from the RFQ Process for the evaluation and limited repair of exterior panels of the Citizens Center and Bank of America Building. He estimated the project to not exceed \$15,000, but the exemption would allow up to \$50,000. This is for the evaluation and immediate repairs that will be needed.

Mr. Jackson said this project is budgeted in the CIP plan.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to authorize John Henry to proceed with up to \$50,000 to evaluate both buildings and make the repairs that can fit into that budget.

Motion to approve contract to provide Architectural Services by Stewart Cooper Newell for relocating the Health Department to the old hospital: Don Chamblee stated that this item is being brought back for consideration. Maggie Dollar spoke concerning the relocation of the Health Department and asked for the Board's approval.

Commissioner Oakes said the Architect should be asked to speed up the process.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the contract to provide Architectural Services by Stewart Cooper Newell for relocating the Health Department to the old hospital.

Discussion concerning Construction and Demolition Debris at Convenience Sites: Commissioner Beam said there has been a lot of discussion all over the county about the C&D boxes at the convenience sites. He asked the impact of putting these boxes back at the sites.

Mr. Chamblee reviewed the cost savings in revenue by removing the C&D boxes at convenience sites and the costs associated with putting these boxes back.

Commissioner Oakes said that he has not seen a lot of facts, mostly guesses and would like to see Mr. Chamblee come back with a cost neutral plan to put the boxes back at convenience sites.

A MOTION by Commissioner Oakes to instruct Don Chamblee to do a sample study for one week, by putting someone at a convenience site, to come back with a report of what comes in and what goes out, at the next meeting about how to move forward with putting C&D boxes back at the sites and opening convenience sites on Sundays.

Mr. Jackson cautioned the Board moving forward with putting the boxes back at the sites due to a shortage in revenues.

Vote: 1 – 4

AYES: Oakes

NOES: Mitchem, Martin, Beam, Patton

A MOTION by Commissioner Beam to return C&D boxes to the convenience sites with a Budget Adjustment coming back to the Board as needed.

Vote: 3 – 2

AYES: Beam, Oakes, Mitchem
NOES: Martin, Patton

Chairman Mitchem said this needs to be done as soon as possible.

Chairman Mitchem instructed Mr. Chamblee to develop a plan for opening all convenience sites on Sunday afternoons.

Closed Session: UPON MOTION by Commissioner Martin, the Board voted 4 – 1 (Patton against) to enter Closed Session pursuant to NCGS § 143-318.11(a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

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

A MOTION by Commissioner Beam to end Mr. Jackson's contract as County Manager subject to Paragraph 5, Subsection 4 of his contract, effective immediately.

Commissioner Patton said that he has worked with Tracy and the action is uncalled for by Commissioners who have never worked with him. He said he appreciates the work Tracy has done for Lincoln County.

Commissioner Martin wished Mr. Jackson well and thanked him for his service here.

Commissioner Patton said Mr. Jackson's evaluation did not warrant this action.

Chairman Mitchem said he enjoyed serving with Mr. Jackson and some things were good, some not so good.

VOTE: 3 -2

AYES: Beam, Mitchem, Oakes
NOES: Patton, Martin

UPON MOTION by Commissioner Oakes, the Board voted 4 – 1 (Patton against) to enter Closed Session pursuant to NCGS § 143-318.11(a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

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

A MOTION by Commissioner Oakes that Kelly Atkins be appointed Interim County Manager for Lincoln County to serve at the pleasure of the Board of Commissioners, terminable at will, pursuant to the further terms and conditions to be agreed upon by the parties, effective immediately.

VOTE: **4 – 1** **AYES:** **Oakes, Beam, Mitchem, Martin**
NOES: **Patton**

Chairman Mitchem said the Board looks forward to working with Mr. Atkins.

Kelly Atkins thanked the Board for the opportunity to work with the Board and the citizens of Lincoln County. He said he has served for 22 ½ years in different roles within Lincoln County Government. He said he brings a unique experience to this Board and the citizens and looks forward to the challenge.

Commissioner Beam said Mr. Atkins has 100% of his confidence, has known him since his early years as a Sheriff's Deputy and has always presented a very professional image for Lincoln County.

Commissioner Oakes said he was very impressed with how Mr. Atkins turned around the Planning and Inspections Department years ago.

Chairman Mitchem said every Board member has worked with Mr. Atkins in the past. He said Mr. Atkins is knowledgeable about what is going on in Lincoln County.

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

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners