

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, MARCH 16, 2015**

The Lincoln County Board of County Commissioners met March 16, 2015 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M. This meeting was originally scheduled for February 16, 2015, but was rescheduled due to inclement weather.

**Commissioners Present:**

Carrol Mitchem, Chairman  
Bill Beam, Vice Chair  
Martin Oakes  
Cecelia A. Martin  
Alex E. Patton

**Others Present:**

Kelly G. Atkins, County Manager  
Wesley L. Deaton, County Attorney  
Amy S. Atkins, Clerk to the Board

**Call to Order:** Chairman Mitchem called the March 16, 2015 meeting of the Lincoln County Board of Commissioners to order. Dr. Tim Walker from Pearl Baptist Church gave the Invocation and Chairman Mitchem led in the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, March 16, 2015**  
**6:30 PM**

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

Call to Order

Invocation – Dr. Tim Walker, Pearl Baptist Church

1. Adoption of Agenda
2. Consent Agenda
  - Waived Fees

- Homeschool Prom
- Resolution #2015-11: Resolution Honoring West Lincoln High School Wrestling Team
- Approval and Acceptance of Agreement for Completion of Improvements for a portion of Trilogy Lake Norman Phase I
- Resolution #2015-12: Resolution Honoring Eagle Scout
- Approval of Minutes
- An Ordinance Enacting and Adopting a Supplement to the Code of Ordinances

3. Recognition of West Lincoln High School Wrestling Team as North Carolina State 2A Wrestling Champions
4. ~~Recognition of Eagle Scouts~~
  - Nick Henkle
  - Casey D'Amato
5. Planning Board Recommendations - Randy Hawkins
6. Deliberation on remand of element 3 of Conditional Use Permit 327 - Strata Solar – Wesley Deaton
7. Road Renaming Public Hearing for Arndt Wright Lane - Netta Anderson

- 7a. Public Hearing Concerning Bond Extension – Deanna Rios
8. US Moto Action Committee - Rick Lanier
  - Resolution #2015-12: Resolution Requesting to Support the Display of the National Motto "In God We Trust" in a Prominent Location on the outside of the James Warren Citizens Center
9. Lincolnton Smart Growth Presentation - Vicki Davis
10. Motion to Set Public Hearing for the Proposed Animal Services Ordinance for April 6, 2015 at 6:30 p.m. - Ron Rombs
11. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
12. Acceptance of Food Lion's Offer to Settle Tax - Kep Kepley
13. Finance Officer's Report
14. County Manager's Report
15. County Commissioners' Report
16. County Attorney's Report
17. Vacancies/Appointments
18. Calendar
19. Other Business

Information Only - No Action Needed  
- Register of Deeds Report

- Property Tax Collection Report

Adjourn

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to adopt the agenda as modified adding Item 7a – Public Hearing concerning bond extension and removing Items 4 and 9.

**Consent Agenda:** **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Consent Agenda removing the Ordinance Enacting and Adopting a Supplement to the Code of Ordinances.

- Waived Fees
- Homeschool Prom
- Resolution #2015-11: Resolution Honoring West Lincoln High School Wrestling Team
- Approval and Acceptance of Agreement for Completion of Improvements for a portion of Trilogy Lake Norman Phase I
- Resolution #2015-12: Resolution Honoring Eagle Scout
- Approval of Minutes
- An Ordinance Enacting and Adopting a Supplement to the Code of Ordinances

*\*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.\**

Commissioner Oakes commented that when he tries to get to the County Ordinances on the website, he has not found very much or it has been horribly unindexed. He asked what is happening to the Code of Ordinances with this Ordinance. Amy Atkins, Clerk to the Board, advised that this Ordinance was only to add the previously adopted Ordinances to the Code of Ordinances for Lincoln County.

Mr. Atkins said he will speak with IT and have them check with the vendor to try and make the Code more user friendly.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Ordinance Enacting and Adopting a Supplement to the Code of Ordinances.

**Recognition of West Lincoln High School Wrestling Team as North Carolina State 2A Wrestling Champions:** The Board presented the West Lincoln High School Wrestling Team with a Resolution Honoring them for winning the state championship.

#### **Planning Board Recommendations:**

**ZMA #614 Scott Soorus, applicant:** (Parcel ID# 81319) A request to rezone 0.7 acre from B-N (Neighborhood Business) to B-G (General Business). The property is located on the northern

corner of N.C. 16 Business and south Triangle Circle in Catawba Springs 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 concerning ZMA #614 – Scott Soorus, applicant.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the rezoning request for ZMA #614- Scott Soorus, applicant.

**CUP #341 Freemont Solar Center, LLC, applicant** (Parcel ID# 30054 and 51301) A request for a conditional use permit to establish a solar farm in the R-T (Transitional Residential) district.

The proposed 40-acre site is located on the east side of N.C. 16 bypass about 3,500 feet south of Sedgebrook Drive West in Catawba Springs Township.

The Planning Board voted 7-0 to recommend approval with the following conditions:

- 1) The applicant shall maintain Avenel Lane during the construction period in the same or better condition as existed prior to construction. Inspections shall be conducted by staff before, during and after construction to make sure the road hasn't been degraded.
- 2) The applicant shall post a security in the amount of 1.25 times the decommissioning cost minus the salvageable value as determined by a licensed contractor or engineer, or a minimum of \$25,000. The security may be in the form of a bond or a letter of credit.

Chairman Mitchem asked if Mr. Hawkins if there were any discussions with the Planning Board about devaluation of property. Mr. Hawkins said the discussion was that there was no evidence presented to the contrary of what the applicant presented. The Planning Board found an analysis of a similar facility which showed it did not negatively impact property values.

Chairman Mitchem said it was the expert opinion that said it would not negatively impact property values. He said they did not find anything that it devalued property.

Chairman Mitchem asked Mr. Hawkins if it was found to be in harmony with the area. Mr. Hawkins stated that the Planning Board found that it was.

Chairman Mitchem asked if anything else was discussed with regards to the solar farm. Mr. Hawkins said there was some discussion about the bond or letter of credit and having an independent contractor or engineer examine that as part of the conditions.

Chairman asked Mr. Hawkins to read finding of fact #3. Mr. Hawkins read the Finding #3 The use will not substantially injure the value of adjoining or abutting property.

**A MOTION** by Commissioner Beam to approve Conditional Use Permit #341 based on the finding of fact presented by the Planning Board.

Commissioner Oakes said he would like to add something to #3. He said specifically because there are court challenges, he would like to add more specific facts. He said he would like to

state at the beginning that the use is not a public necessity and add at the end that no residents objected to the proposal on the grounds of injuring their property.

Commissioner Beam withdrew his motion.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Conditional Use Permit #341 and to amend item #3 of the Planning Board's Findings of Fact to insert at the beginning "the use is not a public necessity" and at the end to say "no residents objected to or gave evidence concerning any possible reduction in value of their property".

**WSCUP #19 Newna Properties, LLC, applicant** (Parcel ID# 89695) A request for a conditional use permit to allow the use of the high-density option in the WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 0.92 acre with a 6,000-square-foot medical office building and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 50 percent of the site, with the use of engineered stormwater controls. The property is located on the west side of N.C. 16 Business about 500 feet north of Townsend Drive in Catawba Springs Township.

The Planning Board voted 7-0 to recommend approval.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve WSCUP #19 – Newna Properties, LLC, based on the Findings of Fact adding the use is not a public necessity.

**Deliberation on remand of element 3 of Conditional Use Permit 327 – Strata Solar:**

The following is transcribed verbatim:

Wesley Deaton: First, for the benefit of the audience, Commissioner Mitchem had previously recused himself and the way the law is, it means he can't even participate as the Chairman for this matter so technically the moderation in this matter would go to the Vice Chairman, Commissioner Beam.

Commissioner Beam: I have a statement that I would like make, would you like me to do that now? I am going to recuse myself from action on the Dellinger Strata case that has been remanded to the Board by the Superior Court Judge to make additional findings of the fact to determine what induced the Board's decision. I do this as a matter of principle, I feel like it would be improper for me to make a decision on a case in which I have not taken evidence nor been privileged to question people testifying. The Board that heard that case no longer exists, this case was heard December 2013, that was almost a year before I was elected. I've made the decision after a great deal of thought and against the advice of the County Attorney, but I believe it's a matter of principle and I don't see how I can possibly make a decision on what was in somebody else's mind when they determined what the findings of the fact were and that's very narrow as to what we are supposed to look at.

Wesley Deaton: So procedurally where that leaves us is we don't have a Chairperson and the Statutes state that when that's the case, the 3 remaining Commissioners have to have a vote on who will be the temporary Chairperson for this particular action.

Commissioner Martin: I nominate Alex Patton to serve as Chair for this particular matter.

Wesley Deaton: Any seconds to that.

Commissioner Oakes: I will second.

Wesley Deaton: All those in favor. All voted in favor.

Now Chairman Patton can moderate over the discussion and I'm happy to provide any further procedural background that is requested.

Commissioner Patton: Wesley, if you would, elaborate just a little bit on why we are here and what we have to do.

Mr. Deaton: As is similar with other conditional use permits, the Board of Commissioners had to make a 4 point finding, or 4 element finding and that was done on the Strata Solar case back in December of 2013. Any disaffected party had the right to appeal to Superior Court and in this case the property owners appealed to the Superior Court and a hearing was held in front of Judge Yvonne Mims Evans in January of 2015. Judge Mims Evans rendered her decision, just to recap the Board had voted to deny the applicant's CUP application back in December of 2013 as to the first 2 elements, it found in favor of the applicant. As to the second 2 elements, it found against the applicant. On appeal, the Judge rendered her decision and found that as to the 4<sup>th</sup> element, and that's the element about the use being in harmony with the surroundings and the ordinance itself, the Judge ruled that she reversed it, that there was no evidence that the Board could reasonably find the way it did. So that decision has been made and she turns it in favor of the applicant or property owner. As to the third element, which is that the use will substantially injure adjacent or adjoining property owners, she issued a very narrow remand for that purpose. What a remand is, it sends it back to the lower court, in this case, the court is the Board of Commissioners to make further determinations. I am going to read specifically what the Court put in her decision about element 3. The Court ordered that she remanded this matter to the Board to make additional findings of fact in order for the Court to determine what induced the Board's decision to find in the negative concerning the 3<sup>rd</sup> requirement that the use will not substantially injure the value of adjoining property unless the use is a public necessity, so the Board's mandate as to this issue is very narrow. It's not to re-decide the case, it's not to hold a hearing with evidence or allow argument, it's just between the Board members who have not recused themselves to make additional findings of fact as to how the Board based its decision. The law is that the Board is considered a continuing entity, even though the members have changed and if a Board member is going to take part that was not party to the original hearing, that Board member has to review the transcripts of the hearing and listen to the hearing that has been taped. Mr. Oakes is the only member standing here that is going to be deliberating this matter that was not party to the original, and I understand from Mr. Oakes that he has in fact reviewed the transcript and reviewed the case.

Commissioner Oakes: At great length, with pain and suffering

Mr. Deaton: So with that sort of procedural background, it's now in the Board's hands.

Commissioner Patton: Alright, thank you Wesley. As we open for discussion, since I guess I'm the only one here that voted with the majority that was here, let me just start, I will give you out a sheet here that has some of the sworn testimony on it from that. I will take just a minute, for the benefit of the audience, if Wesley is comfortable.

The applicants own certified appraiser Rich Kirkland stated "I started looking at national studies looking into seeing what kinds of impacts they see and there's not a lot of useful information on that for this type of size so I had to go out and do my own study. " When asked by Planning Board member Floyd Dean. When you were looking at comparable sales, did you find any neighborhoods that had solar farms adjacent to them that had homes that were in the price range of \$500,000 to \$2,500,00? Mr Kirkland stated "No I have not looked at any that are like that.

My Kirkland gave 2 comparables. One where a development was going next to a solar farm and the second was a potential solar farm going next to a development. Commissioner Klein asked "I guess you have now given us two comparable pieces of information but it doesn't suggest to me that this sampling is enough to draw any conclusions.

Mr Kirkland. " There is no way you could apply statistical analysis to this at this time. Solar farms of this nature in North Carolina is only a very recent activity and that's one of the functions of finding these at this time, looking at matched pairs, there is not many solar farms out there to look at.

Commissioner Klein: Is the sample size large enough regionally, say the southeast in your opinion?

Mr Kirkland: If you look at expanding out again, you find more solar farms, but again statistics are really-appraisal technique is not statistics, there is no real way to apply the information I get from South Carolina to what is going on here, there is a lot of local nuance that wind up getting trapped into everything"

My contention was one of those local nuances was we have no case study of a solar farm moving next to a development such as Sailview. They presented no comparable to that, so that is what I guess I would base my thought process on, the applicant didn't prove their case beyond a doubt. And I will open it up for any discussion.

Commissioner Martin: And in your opinion, the reason was that there aren't any? Is that what you.....

Commissioner Patton: The applicant didn't prove one, the applicant's certified appraiser stated there is not many to choose from, there's not many solar farms out there and he could not categorically deny that it would not injure property values because there is none out there, there is not enough out there to look at to see if it actually does. If you sell houses after a solar farm is there, that's one thing, people know what they are getting, but if you put a solar farm next to a neighborhood, you don't really have any idea and their own appraiser didn't really have significant data to say that it wouldn't injure property values.

Commissioner Martin: Sailview was already there.

Commissioner Patton: That's what I'm saying, one of their comps was the solar farm was already there and then they were going to build a neighborhood, that's the opposite, where people buying the house know.

Commissioner Martin: Well what about the Chapel Hill development where it dead ended into that? I will have to find that in here while we are talking about it to see what that says. Go ahead.

Commissioner Patton: Yes, I think so.

Commissioner Oakes: I've prepared a very detailed findings of fact, but let me talk to you comment there. The appraiser submitted only a single solar farm as being comparable where he actually showed sales numbers. The other one he talked about was Zebulon, which was where the developer was proposing to build a development next to the solar farm and I don't think that was, that's an opposite horse and cart than this one. If you look into the details submitted, there were only 2 post solar farm sales listed. One did not contain sufficient data, for example, it didn't contain house type, square footage, and other such details so you just basically had a number for a house and that was it. And so I have no idea what that house was. The other comparable was a ranch house, where he listed so much per square foot and all the other so called matched pairs were all 1 1/2 and 2 story houses, so not particularly comparable. So when you come down to it, his whole testimony is based on a single sale, which I don't believe you should be relying on in this kind of thing. In addition, the sales value of those houses was \$220,000 to \$240,000 whereas the properties in the neighborhood are \$460,000 and up to over a million dollars so you are comparing apples and pomegranates. I don't think that's a valid comparison. Furthermore, later testimony pointed out that Mr. Kirkland's own appraisal report shows that the solar farm itself was built on land previously zoned industrial, which meant the people buying in that neighborhood were buying with the expectation that there would be something a little ugly, maybe not real ugly, but some ugly behind them and so I think a solar farm would characterize itself as being industrial, or not a lot better than industrial. So for all those reasons, I find that they didn't prove anything there. And then in opposition, Mrs. McLean testified that she had lost the sale of her house because of the solar farm and that was documented, not objected to and I think that was proven so they have 1 sale that didn't happen and how much value she lost is impossible to say because she can't sell the house apparently. There was then evidence submitted by the opponents of the solar farm located in Clay County and the evidence said that Clay County Board of Equalization and Review reduced the value of 19 houses in a subdivision next to a solar farm by 30%. The applicant did not object to that testimony, so I find that compelling. And that's in summary what I got.

Commissioner Patton: Ok, any other discussion

Commissioner Martin: Nothing against Mrs. McLean, but she didn't even know why she was there, her testimony was very disoriented and I don't see in here where she actually, she thinks she lost the sale because of that, her opinion. She didn't bring an affidavit saying that from the purchaser.

Commissioner Patton: Do we have a motion on the floor?

Commissioner Oakes: Well, what I'd suggest is we take your paragraphs and put them at the beginning of my findings of fact #2 and submit all of that.

Commissioner Patton: Ok, read your findings of fact.

Commissioner Oakes: The whole thing? It could take a while.

#### Findings of Fact

Re: "(3) the use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity;"

The basis for the Board's decision as to element three is further elaborated and substantiated as follows.

I had legal help here.

The following findings were based on a stipulated record in the matter, as no new evidence was taken, and no new arguments were allowed.

The witnesses included an appraiser offered by the Applicant and two appraisers offered by opponents to the Applicant's application.

#### FINDINGS OF FACT:

- 1) The use is NOT a public necessity. This was not claimed by the applicant, and no evidence was presented by the Applicant that the use was a public necessity.

Under, I'm sorry, we are still on part 3, subsection 2

2)

The applicants own certified appraiser Rich Kirkland stated "I started looking at national studies looking into seeing what kinds of impacts they see and there's not a lot of useful information on that for this type of size so I had to go out and do my own study." When asked by Planning Board member Floyd Dean. When you were looking at comparable sales, did you find any neighborhoods that had solar farms adjacent to them that had homes that were in the price range of \$500,000 to \$2,500,00? Mr Kirkland stated "No I have not looked at any that."

My Kirkland gave 2 comparables. One where a development was going next to a solar farm and the second was a potential solar farm going next to a development.

Commissioner Klein asked "I guess you have now given us two comparable pieces of

information but it doesn't suggest to me that this sampling is enough to draw any conclusions.

Mr Kirkland. "There is no way you could apply statistical analysis to this at this time. Solar farms of this nature in North Carolina is only a very recent activity and that's one of the functions of finding these at this time, looking at matched pairs, there is not many solar farms out there to look at.

Commissioner Klein: Is the sample size large enough regionally, say the southeast in your opinion?

Mr Kirkland: If you look at expanding out again, you find more solar farms, but again statistics are really-appraisal technique is not statistics, there is no real way to apply the information I get from South Carolina to what is going on here, there is a lot of local nuance that wind up getting trapped into everything"

The burden is on the Applicant to prove that the use will not significantly injure the value of the adjoining property. We find that the applicant has failed to meet its burden of proof. Although it did meet its burden of production and provided evidence as to this element, we found the evidence unconvincing for the reasons below.

The Applicant tendered, without objection, Richard Kirkland as an expert witness in appraisal. The appraisal report that the applicant submitted [see Kirkland Appraisals.pdf] referenced only a single solar farm as being comparable. In that case [Spring Gardens] while the applicant claimed two post-solar farm sales as being matched pairs, one did not contain sufficient data [house type, square footage, etc. were all missing] and the other was a Ranch type house being compared with the 1.5 and 2 story houses in the same subdivision. Therefore, Mr. Kirkland's testimony rested on the sale of a single property of a different type than the "comparables" found in the same subdivision, and in subdivisions adjacent or close to the current application. Furthermore, the average values in the neighborhood Mr. Kirkland testified to are \$220,000 to \$240,000, while the houses within 1 mile of the proposed solar farm average more than \$460,000 [from the Beck testimony described below]. Testimony from another appraiser (Beck) pointed out that the Spring Gardens solar farm was built on property zoned industrial, as documented in Kirkland's own report (p.17), who therefore concluded that the subdivision's original pricing built in the expectation of something "ugly" being built next door.

The applicant's witness offered testimony that a Verizon center did not affect property values of adjacent properties. However, because this center was not a solar farm, we don't find this example to be comparable or instructive. In summary, the testimony which the Applicant submitted in support of its assertion that the proposed use would not substantially injure the value of adjoining or abutting property was not convincing. It failed to include examples that were reasonably comparable to the Applicant's proposed use and the properties located near the Applicant's proposed use.

- 3) In addition, opponents to the Applicant's proposed use brought forward credible, substantial evidence that in fact the proposed use *would* substantially injure the value of adjoining or abutting property.

a. First, there was testimony from Martha McLean, a homeowner who had a property abutting the proposed solar farm. Ms. McLean had her property listed for sale and under contract at the time the Applicant filed its solar farm application. When the solar farm project was announced, the proposed purchaser terminated the purchase contract, and Ms. McLean testified, without objection from the Applicant, that the reason for the termination was the proposed solar farm. No evidence was presented to rebut or contradict Ms. McLean's assertion, and thus we find it credible that in fact, the proposed solar farm was the cause of Ms. McLean losing the contract on the sale of her house. We therefore find that the injury to the value of Ms. McLean's property, due to the proposed use, is significant, substantial and actual damage.

b. The opponents further submitted the testimony of Randy Beck and Geoffrey Zawtocki, both licensed appraisers working for Fred H. Beck & Associates. Both appraisers were tendered as experts without objection.

The appraisers submitted evidence, without objection, that the properties located near the proposed use had a median value higher than the median values near other solar farms, including the solar farms cited in Mr. Kirkland's testimony. They further testified that higher-price home buyers (i.e. buyers of homes like the ones located in the area surrounding the proposed solar farm) are pickier and thus more apt to view "ugly" views more negatively than moderate-price home buyers. They testified, and we find credible, that because of this the proposed use would substantially injure the values of adjacent and adjoining properties.

Furthermore, the opponents to the application presented evidence of a solar farm located in Clay County, North Carolina. Their evidence tended to show that the Clay County Board of Equalization and Review reduced assessments on 19 properties in a neighborhood adjacent to a solar farm by 30%, which we agree is significant and likely to be repeated in the current case. This evidence was taken without objection, and we find it to be a credible example that solar farms can substantially reduce and injure the values of adjacent properties, and further that this Applicant's proposed use would substantially injure the values of adjacent properties.

Commissioner Martin: That sounded like a George Arena finding of fact.

**A MOTION BY** Commissioner Oakes to approve the wording of the Findings of Fact as read.

Commissioner Martin: My comments is, while I don't want to have you go back and read it again, it sounds like what we are saying and I'm opposed to saying that \$100,000 house it wouldn't matter if it devalues it, but it matters if it devalues a million dollar house. That's basically what you're saying.

Commissioner Oakes: No, what I'm saying is and open testimony I think showed, was that 2 things, first of all, the Spring Garden Subdivision had this land at the back zoned Industrial so the people buying there from day 1 would have expected something not so pretty at the back.

Commissioner Martin: The People buying in Sailview on day 1 drove down Webbs Road and we know what's there.

Commissioner Oakes: Exactly, my point is that's already there. The surprise is that when you take that into account and they got a 10% discount on the lots because they had an ugly entrance, now what you're doing is making it far worse because they were expecting a residential subdivision to be on that land or a continuing farm and not a solar farm so they are being surprised. Just like in Spring Gardens, the people there knew there was going to be something out the back that was industrial in nature.

Commissioner Martin: What about in Chapel Hill. I haven't been able to find it in the testimony, but you drive out facing a solar farm, I read it this afternoon and should have underlined it, but it's \$800,000 houses.

Commissioner Patton: That's one that was proposed, wasn't it?

Commissioner Martin: No, it was existing.

Commissioner Oakes: Well I didn't find any evidence in the 8 plus hours of verbal stuff on Chapel and certainly didn't find any in writing.

At this point a vote was taken on Commissioner Oakes' motion, with Commissioners Patton and Oakes voting for and Martin against. The motion carried.

Commissioner Patton: I will now turn the meeting back over to Chairman Mitchem.

Chairman Mitchem: You know it's very ironic that this Board just approved a solar farm and now they turn around and disapprove a solar farm again. Cecelia was exactly right in what she said, if the finding of fact does it devalue the property, it doesn't say does it devalue the property \$750,000 or a million dollar home. It says does it devalue the property and it doesn't matter if it is a \$100,000 house or a million dollar house. Facts are facts and it's a disgrace that this Board had a second opportunity to do this and they didn't. With that said, I've said enough about that and we will move on. But it is totally, totally uncalled for that the facts were not considered, I've reviewed tapes and sat through all the whole deal before too. We approved one and it was alright to approve the one solar farm approved a while ago and then we turn around and don't approve one. I need some more explanation on that and what the thought process was, undoubtedly it must not have been too much.

**Road Renaming Public Hearing for Arndt Wright Lane:** Netta Anderson presented the following:

This road is located off of Walker Road (formerly known as Best Way) and requires renaming due to, there are two private roadways, both using the name Best Way. To be in compliance with the Lincoln County Addressing Ordinance, the private roadway must be renamed. The proposed road name change is **Arndt Wright Lane**. The name is not a duplicate or sound-alike and has been approved by the Addressing Department.

Chairman Mitchem opened the road renaming public hearing. Being no speakers, Chairman Mitchem closed the public hearing.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the renaming for Arndt Wright Lane.

**Public Hearing Concerning Bond Extension:** Deanna Rios said this a public hearing for extending the expiration date for the remaining school bonds for an additional 3 years. The Board called for this public hearing 2 meetings ago, so if it is approved, it will extend the expiration to November 4, 2018.

Chairman Mitchem opened the public hearing concerning the Bond Extension. Being no speakers, Chairman Mitchem closed the public hearing.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Bond Extension.

**US Motto Action Committee:** Rick Lanier, co-founder and Vice Chairman of the US Motto Action Committee, asked the Board to vote to support the display of the National Motto "In God We Trust" in a prominent location on the exterior of the James Warren Citizens Center. He said that private donations will cover the entire cost.

Commissioner Oakes if installation costs will be included. Mr. Lanier said that every bit of it, including installation will be paid thorough private donations.

**UPON MOTION** by Commissioner Beam, the Board voted unanimously to accept the Resolution as presented by Mr. Lanier.

**RESOLUTION TITLE: LINCOLN COUNTY BOARD OF COMMISSIONERS: TO SUPPORT THE DISPLAY OF THE NATIONAL MOTTO "IN GOD WE TRUST" IN A PROMINENT LOCATION ON THE EXTERIOR OF THE JAMES WARREN CITIZENS CENTER.**

WHEREAS, "In God We Trust" became the United States national motto on July 30, 1956, shortly after our nation led the world through the trauma of World War II; and,

WHEREAS, the words have been used on U.S. Currency since 1864; and,

WHEREAS, the same inspiring slogan is engraved above the entrance to the Senate Chamber as well as above the Speaker's dais in the House of Representatives; and,

WHEREAS, the County desires to display this patriotic motto in a prominent location on the exterior of the James Warren Citizens Center as a way to solemnize public occasions and express confidence in our society.

NOW THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners do hereby resolve as follows:

1. That the Board of Commissioners of Lincoln County, North Carolina do hereby determine that the historic and patriotic words of our national motto, "In God We Trust", shall be permanently and prominently displayed on the exterior of the James Warren Citizens Center.
2. Funds raised from private donations shall pay for the cost of construction and installation of said national motto signage and NO County tax dollars will be used.
3. The County Clerk shall certify to the passage and adoption of this Resolution at a regularly scheduled meeting of the Lincoln County Board of Commissioners of Lincoln County, North Carolina be held on the 16<sup>th</sup> day of March, 2015.

To Support the Display of the National Motto "In God We Trust" in a Prominent Location on the Exterior of the James Warren Citizens Center.

This 16<sup>th</sup> day of March 2015.

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Carrol Mitchem, Chairman

ATTEST:

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Amy Atkins, Clerk to the Board

**Motion to Set Public Hearing for the Proposed Animal Services Ordinance for April 6, 2015 at 6:30 p.m.:** Ron Rombs presented the Proposed Animal Services Ordinance for the Board's review. He said the current document is outdated and has several areas that are not applicable anymore because the State Statutes have changed. He said they have spent 3 years and had several group/committee meetings with various interested parties. He said they have a good draft document and would like a public hearing for this document scheduled for April 6, 2015 at 6:30 p.m.

Commissioner Beam asked if they met with the Lincoln County Humane Society. Mr. Rombs said they did not meet with the Humane Society as the Humane Society themselves. Commissioner Beam asked Mr. Rombs to set up a meeting with them before the public hearing is held.

Chairman Mitchem asked if any part of this document addresses stray and roaming animals or a leash law. Mr. Rombs said this is addressed in owner's responsibility. He said their recommendation suggests that the owner has the responsibility to maintain control of their

animals on their property, that animals off the owner's property must be under the owner's direct control.

Commissioner Oakes asked what direct control means. Mr. Rombs said that the owner can control, whether by leash or by vocal command control the animal within their confines.

Chairman Mitchem asked why they didn't just put Leash Law. Mr. Rombs said there are a lot of connotations with leash laws and leash laws do refer to a leash, a mechanism of attachment to an individual.

Commissioner Patton said the problem is that we built a new animal shelter and we can build one as big as WalMart and in a few years it will be full. That was only the beginning of what needs to be done to solve the problem. We are working towards our Animal Control facility being no-kill, and they have come a long way toward that, but ultimately the problem will never be solved unless this is done. He said the root of the problem is that you have to be a responsible pet owner, if you have them, you have to take care of them.

Commissioner Beam questioned if this would be east to west, the whole county. He said being from the West Lincoln area, he is not in favor of a leash law. He said there are a lot of community dogs in the west end of the county and he feels it would be much different in the west end and not well received.

Chairman Mitchem asked how many addition employees would be required to enforce these regulations. Mr. Rombs said no additional staff would be needed. He said they get a lot of calls about stray animals across the county, that is their biggest call volume. Right now, unless that animal is destroying something or killing an animal, there is not a lot than can be done.

Chairman Mitchem asked the process if someone calls to say there is a dog on their property. Mr. Rombs said they come out and check with the resident to confirm that there was an animal on their property and ask for an identification or description of the animal. They try to locate the animal or see if it is still there. If the animal is there, they make an attempt to capture it and if they can't they set traps to try and capture it.

David Workman, Animal Services Manager, presented the list of the changes from the current Ordinance to the proposed Ordinance:

- The elimination of the subdivision "Leash Law" by requiring all pet owners to keep animals on that individual's real property and from creating a nuisance to other property owners.
- The sales of dogs and cats for a commercial purpose on any roadside, public right-of-way, park, playground, county-owned property, flea market, or retail parking lot that is generally accessible by the public.

- Creates a new safety standard for transporting an animal in a pickup or open vehicle that requires the animal to be either fully enclosed within the vehicle or protected by a device or cage that will prevent the animal from falling, jumping, or being thrown from the vehicle.
- Removal of “Pig Pen” paragraph that conflicted with current state laws
- Removal of “Domestic fowls running at large after notice” paragraph that was nothing more than a direct quote from current state law
- Removal of the “Animal Services Advisory Board” section that was never implemented or utilized
- Updated several definitions to align with the language used in state statutes.
- Updated the language in the “Interference or Concealment” section.
- Added a section authorizing Animal Services to set and remove traps on public and private property.
- Added a section to clarify the ordinance is not intended to interfere hunting dogs
- Added a section to clarify the ordinance is not intended to conflict or supplant any federal, state or municipal laws, rules or regulations especially those concerning the licensing of kennels, shelters, or pet shop or conflict with any state, local, or municipal laws regarding land use
- Deleted the section authorizing the sale of euthanized animals for research and training

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to set a public hearing for April 6, 2015 at 6:30 p.m. for the proposed Animal Services Ordinance.

**Public Comments:** Chairman Mitchem opened Public Comments.

Robert Avery, 4466 Hwy 182, Crouse, asked about a county survey for citizens before budget time.

Rudy Bauer, 8252 Blades Trail, Denver, said he is not against solar farms, but on east side they are getting solar farms and the west is not. He asked the Board to not bring up the pig or chicken farms again on the solar farms if they do not get approved. He said EPA will control and monitor them those farms if they are put in.

Being no additional speakers, Chairman Patton closed public comments.

**Acceptance of Food Lion's Offer to Settle Tax:** Kep Kepley presented the following:

At this time, Lincoln County should consider accepting the settlement offer as proposed from Food Lion. This action is recommended by the North Carolina Department of Revenue (NCDOR), as they negotiated the settlement proposal on behalf of several counties. The following is an outline of this appeal:

1. In 2008 an audit was conducted by the contracted county auditor on Food Lion's business personal property on three (3) stores which resulted in a discovery of \$39,866.67. Note: At the same time, County Tax Services performed compliance reviews for several other counties (14).
2. Food Lion appealed to the North Carolina Property Tax Commission (PTC) as to Lincoln County and the other counties.
3. NCDOT chose to handle the appeals and negotiate for all the counties.
4. This appeal was not pushed to be settled by any of the parties for several years.
5. In May 2014, DOR asked to meet with all the counties and review their attempts to settle.
6. September 25, 2014, DOR met with counties again to discuss the latest proposed settlement.
7. September 29, 2014, counties received an offer to settle from Food Lion. Counties requested further considerations.
8. October 17, 2014, DOR sent new proposal from Food Lion.
9. November 2014 DOR asked for all counties to respond to them to continue with trying to settle.
10. November 24, 2014, DOR and Food Lion agreed to a settlement offer. Counties were notified and told Food Lion continued to make changes to the proposed settlement.
11. DOR and Food Lion continued to make changes to the proposed settlement.
12. February 23, 2015 DOR forwarded the proposed agreement to the counties.
13. Agreement was sent to the county attorney for review.

The proposal, as negotiated by DOR, would generate a payment by Food Lion to Lincoln County in the amount of approximately \$11,255.12. Lincoln County can reject this proposal, but then would have to settle with Food Lion without DOR. By rejecting this offer, the appeal would be heard by the PTC and could cost the county in the way of attorney fees and would most likely only result in the county receiving only the proposed amount since other counties have accepted the offer.

Mr. Kepley recommended accepting the offer.

Commissioner Oakes asked how many other counties have settled. Mr. Kepley said he did not know at this point.

Commissioner Oakes if this could be postponed. Mr. Kepley said he can contact the Department of Revenue to see who has settled.

**UPON MOTION** by Commissioner Patton, the Board voted 4 – 1 (Oakes against) to accept the settlement with Food Lion.

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

**County Manager's Report:** Kelly Atkins presented the County Manager's Report, reminding the Board of a meeting on March 24, 2015 at 6:30 p.m. to discuss the courts and the hospital building and asked if they could meet with department managers on March 25, 2015 at 1:00 p.m. He said the City has requested a meeting with the County to discuss the County move to the hospital, which will take place March 31, 2015 at 6:30 p.m.

**County Commissioners' Report:** Nothing reported.

**County Attorney's Report:** Mr. Deaton said the Board had talked previously about a tax settlement with IBM, which has now been accepted.

**Vacancies/Appointments:** A MOTION by Commissioner Beam to appoint Martin Oakes to the Board of Equalization and Review.

Commissioner Patton voiced his opposition to this appointment saying the County is better served if either Commissioners do it all or nothing and not mingle the 2. He said the Commissioners set the tax rate and they do the appeals. He said he doesn't believe this is the right way to go.

Commissioner Beam said having an elected official on a Board gives the opinion of fairness, so that the Tax Office doesn't appear to be heavy handed in directing the people on the Board. He said having an elected official on any board would be an advantage.

Commissioner Patton said the County is better served having private citizens serve and do that instead of the perception that the Board is having someone on there to protect the County's interest.

Commissioner Oakes said anybody who has seen him in action at the Board of E&R meetings or at the Tax Department would be the last people to say he supports the County's position on anything. He said given the fact that there was just a revaluation and he has heard a number of serious complaints, he thinks we are better off to head them off at the Board of E&R than having to handle them in Raleigh.

Commissioner Martin asked if it would be better for Commissioner Oakes to be an observer instead of a member.

Commissioner Oakes said if he is an observer, he cannot object to issues.

Chairman Mitchem said he has suggested that the Board of Commissioners handle the appeals instead of the Board of Equalization and Review.

Commissioner Patton said if the process is broken, the Board should fix it, but should not appoint a Commissioner to the Board of E&R.

Mr. Deaton stated that by the Statute that created the Board of Equalization and Review, there needs to be a finding that the person has experience in either farming, banking, business, or real estate.

Commissioner Beam added to his motion that Mr. Oakes be accepted to the Board of Equalization and Review, that he is more than qualified as a member of the business industry for a lifetime.

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

**Other Business:** Commissioner Oakes said he would like the UDO amended to say that a Planning Board member cannot serve more than 2 terms in a given seat, but may be appointed to a 3<sup>rd</sup> term provided that is in a different seat. He asked that this be changed in the next UDO amendment.

Commissioner Martin asked about an appeal with the Strata Solar case. Mr. Deaton gave information concerning a possible appeal.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Carrol Mitchem, Chairman  
Board of Commissioners