

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 4, 2013

The Lincoln County Board of County Commissioners met November 4, 2013 at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

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

Others Present:

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

Planning Board Members:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
John Dancoff
Cathy Davis
Floyd Dean
Keith Johnson
Brian Rabalais

Call to Order: Chairman Patton called the November 4, 2013 meeting of the Lincoln County Board of Commissioners to order. Commissioner Robinson gave the Invocation and led in the Pledge of Allegiance.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, November 4, 2013
6:30 PM

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

Call to Order

Invocation - Commissioner Robinson

Pledge of Allegiance

1. Adoption of Agenda

2. Consent Agenda

- Tax Requests for Releases - Over \$100

- September 16 - October 15, 2013

- Tax Requests for Refunds - Over \$100

- August 12 - 26, 2013

- Minutes for Approval

- Special Events Fee Waiver Request

- Cat Square Christmas Parade

- Denver Christmas Parade

- CDBG Monthly Status Update

- Capital Project Ordinance Amendment #2: Library Technology Upgrade

- Approval of Jail Health Plan

- Sponsored Group Status

- Lincoln County Concert Association

- Request from Sheriff to Reclassify Position #242 from Deputy to Investigator

3. Zoning Public Hearings - Randy Hawkins

CUP #331 American Tower Corp., applicant (Parcel ID# 55985) A request for a conditional use permit to erect a 240-foot telecommunications tower in the R-T (Transitional Residential) district. The proposed 29-acre site is located on the east side of Bill Sain Road about 2,200 feet east of Cat Square Road in Howards Creek Township.

CUP #291A Francis Sutphin, applicant (Parcel ID# 24834) A request to amend a conditional use permit allowing group digs and camping at the old Reel Amethyst Mine. The permit currently limits participation to members of the Mountain Area Gem and Mineral Association and limits digs to four weekends a year. The applicant is requesting amendments to allow other individuals and groups to participate, to allow up to one weekend dig per month and to revise the permit's parking restrictions. The 62-acre parcel is located on the east side of Timber Road about 1,000 feet south of Reinhardt Circle in Ironton Township.

CUP #327 Strata Solar, LLC, applicant (Parcel ID# 30199, 90500 and 90501) A request for a conditional use permit to establish a solar power generation facility in the R-SF (Residential

Single-Family) district. The proposed 36-acre site is located on the north and south sides of Webbs Road at Burton Lane in Catawba Springs Township.

CUP #326 American Tower Corp., applicant (Parcel ID# 25789) A request for a conditional use permit to erect a 195-foot wireless telecommunications tower in the R-T (Transitional Residential) district. The proposed site is on an 11-acre tract located at 1875 Buffalo Shoals Road, on the west side of Buffalo Shoals Road at Sandy Park Road, in Ironton Township.

4. Public Hearing - Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310 Grant Application. The purpose of this public hearing is to explain the proposed Federal 5310 application and obtain citizen input - Marti Hovis, Lori Montgomery
5. Resolution #2013-34: Resolution Authorizing County Manager to Submit Grant Request and Provide Local Match and Required Documentation for Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310) Grant - Marti Hovis, Lori Montgomery
6. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
7. Motion to Award Purchase and Installation of Financial, Human Resources and Utility Software to Tyler Technologies Software - Deanna Rios
- 7A. Request to advance the Lincolnton-Lincoln County Airport \$500,000 in anticipation of grant fund receipts
8. Motion to Approve Contract for Carolina Governmental Services to Provide Administrative Service for CDBG Project 12-C-2423 Scattered Site Housing - Andrew Bryant
9. Other Business

Adjourn

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the agenda moving CUP #327 and CUP #326 to first and second on the public hearings.

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

- Tax Requests for Releases - Over \$100
- September 16 - October 15, 2013
- Tax Requests for Refunds - Over \$100
- August 12 - 26, 2013
- Minutes for Approval
- Special Events Fee Waiver Request
- Cat Square Christmas Parade
- Denver Christmas Parade
- CDBG Monthly Status Update
- Capital Project Ordinance Amendment #2: Library Technology Upgrade

- Approval of Jail Health Plan
- Sponsored Group Status
- Lincoln County Concert Association
- Request from Sheriff to Reclassify Position #242 from Deputy to Investigator

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

Zoning Public Hearings: Randy Hawkins presented the following:

Conditional Use Permit No. 327 – Strata Solar, applicant:

The transcription of this case, provided by Geri Halma, is attached hereto and incorporated into the record by reference.

Conditional Use Permit No. 326 – American Tower Corp., applicant: UPON MOTION by Commissioner Martin, the Board voted unanimously to reopen the public hearing on CUP #326.

Attorney Pat Sarsfield, on behalf of American Tower, asked to request that this matter be continued to the December meeting due to the fact that one of the primary witnesses, Mr. Michael Berkowitz, was on his way and got the call to return to Charlotte immediately due to his son sustaining a neck injury.

UPON MOTION by Commissioner Klein, the Board voted 4 – 1 (Mitchem against) to continue the public hearing to December 2, 2013.

Conditional Use Permit No. 331 – American Tower Corp., applicant:

The applicant is requesting a conditional use permit to erect a 240-foot telecommunications tower in the R-T (Transitional Residential) district. Under the Unified Development Ordinance, a telecommunications tower in excess of 60 feet and no greater than 325 feet is a conditional use in the R-T district, subject to certain standards.

SITE AREA AND DESCRIPTION

The 29-acre parcel is located on the east side of Bill Sain Road about 2,200 feet east of Cat Square Road in Howards Creek Township. It is adjoined by property zoned R-T and R-S (Residential Suburban). Land uses in this area are residential and agricultural. The Lincoln County Land Use Plan designates this area as Suburban Residential.

ORDINANCE STANDARDS

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

§4.3.7 Wireless Telecommunication Facility

A. The proposed tower, antenna or accessory structure and equipment will be placed

in a location and in a manner which will minimize the visual impact on the surrounding area. Accessory structures and equipment must meet all applicable standards of this UDO.

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

C. Minimum tower setbacks shall be as follows:

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

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

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

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

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

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

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

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

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

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

Chairman Patton opened the public hearing.

Pat Sarsfield presented the following information: This is an application for a 240 foot cell tower for Bill Sain Road in Vale, NC. The owner of the property is Sidney Charles Royster and the property is zoned R-T. It is about a 29 acre tract. As Randy indicated,

the application meets all of the requirements of the Zoning Ordinance. A copy of the specifications for the tower have been submitted and it meets all applicable building codes and safety requirements. There is a substantial need for the tower and there is a letter of need from AT&T. Mr. Sarsfield showed a coverage map of the area, pointing out the need for the tower.

Mr. McDonald said he could answer specific questions concerning coverage the tower will provide.

Martin Oakes, 8057 Lucky Creek Lane, said he does not have a comment on this particular case, but more on procedure. He said at the last meeting, the applicant showed up and handed out a document and the Commissioners' own rules say information has to be presented 2 hours before the meeting. He said citizens should get a chance to review the documents.

Wesley Deaton asked if Mr. Oakes is objecting to the introduction of this evidence. Mr. Oakes answered that he is. Mr. Deaton asked Mr. Oakes if his property, at Lucky Creek Lane, is specially injured by the application for use on Bill Sain Road. Mr. Oakes said it is not, he is merely objecting to procedure. Mr. Deaton advised that the Board that they do not have to accept information from people without standing in a case.

Joey Moody asked about coverage in the area and about property values. Mr. McDonald stated that coverage tests in the area showed poor coverage.

Mr. Sarsfield said most information was submitted with the application.

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

Conditional Use Permit #291A – Frances Sutphin, applicant:

The applicant is requesting to amend a conditional use permit allowing group digs and camping in the R-T (Transitional Residential) district at the old Reel Amethyst Mine. (Under the Unified Development Ordinance, private outdoor recreation is a conditional use in the R-T district.) The permit currently limits participation to members of the Mountain Area Gem and Mineral Association and limits digs to four weekends a year. In August, the association notified the county that it has ended its participation. The applicant, who owns the property, is requesting amendments to allow other groups and individuals to participate, to allow up to one weekend dig per month and to revise the permit's parking restrictions.

SITE AREA AND DESCRIPTION

The 62-acre parcel is located on the east side of Timber Road about 1,000 feet south of Reinhardt Circle in Ironton Township. It is surrounded by property zoned R-T. Land uses in this area are primarily residential. The Lincoln County Land Use Plan designates this area as Suburban Residential.

PERMIT'S CURRENT CONDITIONS

The Mountain Area Gem and Mineral Association was the original applicant for the permit. CUP #291 was approved in 2009 and included the following conditions:

- 1) *A driveway permit shall be obtained from the N.C. Department of Transportation.*
- 2) *The Lincoln County Planning and Inspections Department shall be notified in advance of each dig.*
- 3) *Participation in the digs shall be limited to members of the Mountain Area Gem and Mineral Association.*
- 4) *No camping shall take place in the 100-year flood plain.*
- 5) *Alwood Lane shall be used only in case of an emergency.*
- 6) *The digs shall be limited to no more than 150 participants per day.*
- 7) *The association shall maintain liability insurance coverage and file proof of coverage with the county each year.*
- 8) *No vehicles shall be parked on or within sight of Timber Road or near any adjoining properties.*
- 9) *The association shall work with the property owner to clear sufficient areas for primitive camping on a remote area of the property away from any adjoining properties. No permanent camping structures shall be erected. Portable toilets shall be provided on site during the digs and shall be removed when the digs end.*
- 10) *After each dig, the association shall work with the property owner to restore the collecting area, including removing any loose dirt to prevent runoff into nearby streams, installing silt fences near any streams to further prevent any damage, and cleaning up and removing trash generated during the event.*
- 11) *Digs shall be conducted no more than four weekends per year, Friday through Sunday.*

The applicant is requesting amendments to Conditions 3, 7, 8, 9 and 11

Chairman Patton opened the public hearing.

Richard Jacquot said he is the President of the Mountain Area Gem and Mineral Association and they have spent considerable money at this site and are no longer allowed to dig. He said he sent a letter to the Board about this case.

Patricia Herndon said the permit has been violated. She spoke about the traffic and noise from this mine. She asked for the permit to be done away with.

Keith Gaskill said he has been a neighbor of Mr. Sutphin for 6 years and has been there during the digs. He said they are all very nice people and he has no concerns about them digging.

Billie Nantz said she lives in front of where you turn to go to the mine and has never had any trouble with anyone going to dig, no noise, or anything.

Norma Ridenhour said the digs bring some money into the area. She asked the Board to allow the digs to continue.

Francis Sutphin said he was approached to open this back up. He said there was no contract with Rick. He said they would like to have one dig per month with smaller groups.

Harry Pauley said he has been a member of Catawba Valley Gem and Mineral Association since 1987 and has always dug at this site. He said they are nonprofit and they protect God's minerals.

Mr. Jacquot said they did not invite Catawba Valley to the site and the permit was in their name.

Jessie Sack said he is a member of the dig crew and has been a member of the Mountain Area Club. He said they did not put up a MAGMA sign. The violation was Francis having another club on the property.

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

The Planning Board recessed their meeting and continued the meeting on the 3rd floor in the Commissioners Room.

Public Hearing – Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310 Grant Application): Marti Hovis introduced Lori Montgomery, who presented the following information:

Lincoln County Senior Services Transportation is applying to the Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310) Grant. The application will request approximately \$50,000 in 5310 funds. This grant will provide additional transportation services to medical appointments, nutritional sites and other locations to carry out the essential daily living tasks for those individuals who are 65 years of age or older and individuals with disabilities as defined in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102). No county funding will be required since Community Care Block Grant funds can be used to meet the required match.

Chairman Patton opened the public hearing.

Being no speakers, Chairman Patton closed the public hearing.

Resolution #2013-34: Resolution Authorizing County Manager to Submit Grant Request and Provide Local Match and Required Documentation for Enhanced Mobility of Seniors and Individuals with Disabilities Program (Federal Section 5310) Grant UPON MOTION by Commissioner Robinson, the Board unanimously approve the Resolution.

RESOLUTION # 2013-34:

RESOLUTION AUTHORIZING COUNTY MANAGER TO SUBMIT GRANT REQUEST AND PROVIDE LOCAL MATCH AND REQUIRED DOCUMENTATION FOR ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM(FEDERAL SECTION 5310) GRANT

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Status and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for public transportation projects; and

WHEREAS, the purpose of the Section 5310 program is to improve mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all area.

WHEREAS, NCDOT has been designated as the State agency with principle authority and responsibility for administering the Section 5310 Program for small urbanized and rural areas; and

WHEREAS, the Lincoln County Board of County Commissioners hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, and all small administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.

NOW, THEREFORE, be it resolved that W. Tracy Jackson, County Manager of Lincoln County is hereby authorized to submit a grant for federal and state funding, provide the required local match, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide public transportation services.

This Resolution, duly adopted this the 4th day of November, 2013 at Lincoln County, North Carolina.

By: _____
Alex Patton, Chairman

Attest:

Clerk to the Board

Public Comments: Chairman Patton opened public comments.

Robert Avery, 843 Newton Lane, said the UDO seems to be a problem from east to west. He said they should open it back up for discussion.

Martin Oakes, 8057 Lucky Creek Lane, Denver, said during the public hearing there was

a misrepresentation made and lies were in there. He said you cannot see those lies if you cannot see the document ahead of time. Mr. Oakes was advised that he cannot speak concerning a public hearing in public comments.

Being no additional speakers, Chairman Patton closed public comments.

Permission to purchase new Financial and HR software from Tyler Technologies:

Deanna Rios said Finance would like to request permission to purchase Tyler Technology's Munis software package. The Board was concerned about utilizing \$180,000 from Fund Balance for the current year's financial requirements for the purchase of the software package. Finance has confirmed with our Auditors, Martin Starnes & Associates, that the county will put \$571,326 into fund balance with the FY 2103 audit. There is also \$207,000 in the contingency in the General CIP Fund from closed projects after the audit.

UPON MOTION by Commissioner Klein, the Board voted 4 – 1 (Mitchem against) to purchase the Tyler Technologies Software with the sum coming from the contingency in the General CIP Fund at the discretion of the County Manager.

Request to Advance the Lincolnton-Lincoln County Airport \$500,000: Deanna Rios presented the following:

This is a request to advance the Lincolnton-Lincoln County Airport \$500,000 in anticipation of grant fund receipts. The Airport currently has grant reimbursement requests at NC DOT in the amount of \$953,000. The contractor has been waiting to be paid since September, and at this point we are not sure when the funds will be received by the Airport. In the past, the County has advanced funds to the Airport and other outside agencies in anticipation of receipt of funds. The funds would be repaid to the County immediately upon receipt of the grant funds from NC DOT. We would anticipate these funds to be received no later than the end of November.

This advance would be considered a receivable in the County books, and would not affect Total Fund Balance, although as a receivable, it would increase the Stabilization by State Statute amount until repaid.

Commissioner Mitchem said he does not think the County should be in the business of loaning money. Commissioner Klein asked if the City has been approached about this. He also asked why this has been an ongoing problem and the Board has just now been notified.

Mr. Deaton recommended that he draft a note laying out the conditions of this advance.

A MOTION by Commissioner Klein to approve with Mr. Deaton's recommendation.

Commissioner Robinson asked if there has been a conversation with Eaglewood to let them know their check will be there in 10 days. He said those guys are reasonable and feels they would be ok getting their check in 10 days instead of the county jumping through all those hoops.

AN AMENDED MOTION by Commissioner Klein to direct Ms. Rios to speak with Eaglewood and let them know the check will be there in 10 days and see if they are willing to wait that long.

VOTE: 2 – 3 AYES: Klein, Patton

NOES: Mitchem, Robinson, Martin

Motion to Approve Contract for Carolina Governmental Services to Provide Administrative Service for CDBG Project 12-C-2423 Scattered Site Housing -
Andrew Bryant presented the contract for the Board's consideration.

UPON MOTION by Commissioner Martin, the Board voted unanimously to approve the contract for Carolina Governmental Services to provide administrative service for the CDBG Project 12-C-2423 Scattered Site Housing.

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners

Lincoln County Board of Commissioners Meeting

James W. Warren Citizens Center Auditorium
115 West Main Street
Lincolnton, North Carolina
Monday, November 4, 2013
6:30 p.m.

County Commissioners

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

Lincoln County Planning Board

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
John Dancoff
Cathy G. Davis
Floyd Dean
Keith Johnson
Brian Rabalais

CUP #326 Strata Solar, LLC, Applicant

Reported by:
Geri Halma, M.F.A., CSR, RPR, CLVS

1 A P P E A R A N C E S

2 WESLEY L. DEATON, Attorney-at-law, (Pendleton,
3 Pendleton & Deaton), 211 North Academy Street, Post Office
4 Box 159, Lincolnton, North Carolina, 28093-0159,
5 704.735.0483, appearing on behalf of Lincoln County.

6 JAMES E. SCARBROUGH, Attorney-at-law, (Ferguson,
7 Scarbrough, Hayes, Hawkins & DeMay, P.A.) 65 McCachern
8 Boulevard, Southeast, Post Office Box 444, Concord, North
9 Carolina, 28026-0444, 704.788.3211, appearing on behalf of
10 Sailview Owners and Concerned Citizens Association.

11 ROBERT L. BURCHETTE, Attorney-at-law, (Johnston
12 Allison & Hord) 1965 East Morehead Street, Post Office Box
13 36469, Charlotte, North Carolina, 28236, 704.332.1181,
14 gahlum@jahlaw.com, appearing on behalf of the Strata Solar.

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1 P R O C E E D I N G S

2 CHAIRMAN ALEX PATTON: The next item is the adoption
3 of the agenda. If you look at your zoning public hearings,
4 I would ask that we move Conditional Use Permit No. 327 and
5 Conditional Use Permit No. 326 to first and second on the
6 public hearings.

7 Are there any other changes or additions to the
8 agenda? Hearing none, shall we entertain a motion to adopt
9 the agenda as amended?

10 MR. MITCHEM: So moved.

11 CHAIRMAN ALEX PATTON: A motion was made by
12 Commissioner Mitchem. Is there any discussion? Hearing
13 none, all in favor indicate by saying aye.

14 Any opposed? The agenda is adopted.

15 The next item is the consent agenda. Is there any
16 item in the consent agenda that any commissioner wishes to
17 pull out for individual consideration? Hearing none, the
18 chairman will entertain a motion to adopt the consent agenda
19 as presented.

20 MR. KLEIN: So moved.

21 CHAIRMAN ALEX PATTON: Motion made by Commissioner
22 Klein. Is there any discussion? Hearing none, all in favor
23 indicate by saying aye.

24 Any opposed? The consent agenda is adopted
25 unanimously.

1 The next item on the agenda is zoning public
2 hearings. Randy? Where is he at? There he is. The first
3 case is Conditional Use Permit No. 327 Strata Solar.

4 SPEAKER: Good evening, Mr. Chairman. And I
5 understand that the attorneys for the Sailview residents has
6 filed a motion asking for this hearing to be continued. And
7 Wesley can comment further on that.

8 CHAIRMAN ALEX PATTON: Let's declare the public
9 hearing open on Conditional Use Permit No. 327. Now I will
10 defer to counsel.

11 MR. DEATON: We received a motion to continue from
12 Jim Scarbrough, representing certain homeowners in Sailview
13 Subdivision.

14 We received notification from the attorney for the
15 applicant that she did not object to that motion to
16 continue. Of course, Mr. Scarbrough doesn't represent all
17 the parties here. And we still have to bring this before
18 the commission. I believe he may want to say a few brief
19 words.

20 CHAIRMAN ALEX PATTON: Let me make one statement
21 before you continue. Let the record reflect that
22 Commissioner Mitchem has asked to recuse himself from this
23 zoning conditional use permit. Go ahead.

24 MR. SCARBROUGH: Thank you, Mr. Chairman. My name
25 is Jim Scarbrough. I represent some residents of Sailview

1 and Concerned Citizens Association residents out there.

2 And we have filed a written motion and would also
3 orally move to continue to your December date--I believe it
4 is December 4th or 2--because we have an October--we have a
5 November 25 hearing date before your Board of Adjustments.

6 There are a number of interpretations that we have
7 asked Mr. Hawkins to do, and we haven't appealed all of
8 them. But we've appealed quite a few of them to the Board
9 of Adjustments.

10 And we have also shared that with Strata Solar. And
11 we believe that that would be important to the outcome of
12 your hearing to know the interpretation of the Board of
13 Adjustments, how it affects Strata Solar.

14 And as I understand it, Strata Solar does not oppose
15 our motion. It has consented to it in a letter was attached
16 to my motion to continue. And we would ask that you act
17 favorably on that tonight. Thank you. And I would be glad
18 to answer any questions if you have any.

19 CHAIRMAN ALEX PATTON: Any questions for any member
20 of the board of commissioners of the planning board? Thank
21 you.

22 MR. BURCHETTE: If I might.

23 CHAIRMAN ALEX PATTON: Yes, sir.

24 MR. BURCHETTE: I'm Bob Burchette. I am acting as
25 Strata's attorney. We don't object to the continuance. But

1 we just offer one comment so we make sure the record is
2 clear on this.

3 I have spoken both to Ms. Todd, who is my associate,
4 and I have spoken to Mr. Williams. And there was no
5 discussion with Commissioner Mitchem. Of course, it's his
6 decision. He never talked to us about the merits of the
7 case. I want to make sure that that's clear. It was an
8 awkward situation from our perspective. And it didn't last
9 that long. But he never discussed the case itself. We want
10 to make that clear.

11 We don't object to Jim's motion. We understand it's
12 before the board of adjustment, and we do think that there
13 are some questions that were asked that we felt you make
14 your decision.

15 CHAIRMAN ALEX PATTON: Thank you.

16 Voice: Talk into the mic so we can hear you.

17 MR. BURCHETTE: I thought I was being heard. Thank
18 you very much. Do you have any questions for me?

19 CHAIRMAN ALEX PATTON: Any questions? Thank you.

20 MR. BURCHETTE: Thank you very much.

21 CHAIRMAN ALEX PATTON: All right. Hearing none, the
22 chairman will entertain a motion to express the board's
23 pleasure concerning Conditional Use Permit No. 327.

24 MR. ROBINSON: I make a motion that we continue it
25 as requested.

1 CHAIRMAN ALEX PATTON: Okay. You have heard the
2 motion by Commission Robinson. Any discussion? Hearing
3 none, all in favor indicate by saying aye.

4 Any opposed? Motion carries unanimously. It will
5 be heard the first meeting in December.

6 (The meeting was concluded at 6:42 p.m.)

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1 STATE OF NORTH CAROLINA

2 COUNTY OF CATAWBA

3 I, Geri Halma do hereby certify that said hearing
4 was taken by me and transcribed under my supervision and
5 direction; and that the foregoing 7 pages constitute a true
6 and accurate transcript of the hearing;

7 I do further certify that the parties were present as
8 stated in the caption.

9 I do further certify that I am not of counsel for or
10 in the employment of any of the parties to this action, nor
11 am I interested in the results of said action.

12 This the 19th day of November, 2013.

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14 Geraldine Halma, MFA, RPR, CLVS
15 Notary Public #19940100021
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