

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 20, 2016

The Lincoln County Board of County Commissioners met June 20, 2016 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

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

Commissioners Absent:

Cecelia A. Martin, Chairman

Others Present:

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

Call to Order: Vice Chair Mitchem called the June 20, 2016 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence and led in the Pledge of Allegiance. He asked everyone to remember the fallen Fireman from East Lincoln.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, June 20, 2016
6:30 PM

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

Call to Order - Chair Cecelia Martin

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
- Surplus Property

- Jail Health Plan
- Vehicle Tax Systems Refunds
- CDBG Quarterly Report
- 3. Planning Board Recommendations - Randy Hawkins
- 4. Public Hearing regarding proposed installment financing with Carolina Bank
 - Motion to Adopt Resolution
- 5. Public Hearing - Industrial Development Incentive Grant for Existing Industry - Kara Brown
- 6. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
- 7. Mountain Island Educational State Forest Update and Request - Laura Shidal
- 8. Health Department and Government Center Update - Don Chamblee
- 9. Approval of Sole Source Purchase of Caterpillar D6T XW Track Type Tractor for the Landfill - Don Chamblee
- 10. Renewal of Odor and Corrosion Control with Evoqua Water Technologies - Don Chamblee
- 11. Capital Project Ordinance Amendment #8
 Budget Ordinance Amendment #12
 Budget Ordinance Amendment #13
- 12. Finance Officer's Report
- 13. County Manager's Report
- 14. County Commissioners' Report
- 15. County Attorney's Report
- 16. Vacancies/Appointments
- 17. Calendar
- 18. 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 presented.

Consent Agenda: **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to adopt the consent agenda removing Resolution #2016-5.

Consent Agenda
 - Surplus Property

- Jail Health Plan
- Vehicle Tax Systems Refunds
- CDBG Quarterly Report

*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

Planning Board Recommendations: Randy Hawkins presented the following recommendations from the Planning Board.

PD #2016-3 NLA JKS Lincoln, LLC, applicant (Parcel ID# 30725) A request to rezone 16.7 acres from R-T (Transitional Residential) and B-G (General Business) to PD-C (Planned Development- Commercial) to permit a commercial complex with a total building area of 87,460 square feet. The property is located on the north side of N.C. 73 and east side of N.C. 16 bypass in Catawba Springs Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness as recommended by the Planning Board.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve PD #2016-3 based on the recommendation of the Planning Board.

CUP #344-R ATOOD, LLC (Parcel ID# 31055, 83109, 84267 and 89986) A request to renew a conditional use permit to establish a solar farm in the R-T (Transitional Residential) and R-R (Rural Residential) districts. The proposed 129-acre site is located on the west side of Mariposa Road about 1.5 miles south of Old Plank Road in Catawba Springs Township.

The Planning Board voted 9-0 to recommend approval with the following conditions:

- 1) That any deed transferring ownership of the property contain a covenant stating that the owner will be subject to the cost of decommissioning.**
- 2) That the decommissioning plan be reviewed every 10 years and, if necessary, the decommissioning bond adjusted.**

The applicant asked for a postponement of a vote on this due to the fact that there is not a full board present.

UPON MOTION by Commissioner Patton, the Board voted unanimously to postpone a vote until July.

CUP #355 Randall and Tiffany Allen, applicants (Parcel ID# 82557) A request for a conditional use permit to place a Class C (singlewide) manufactured home in the R-S (Residential Suburban) district. The 0.73-acre parcel is located on the south side of N.C. 27 and west side of Voyd Brendle Road in North Brook Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the Planning Board's recommendation and findings of fact, substituting #3 with:

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

FACTUAL REASONS CITED: Manufactured homes are already located in this area and one additional home should not materially affect neighbor's home values. This will be a new home with a shingle roof and vinyl siding. One person, an appraiser, offered a contrary opinion, but since his property abuts this one, he can't be considered unbiased. In addition, he offered no exhibits or other evidence to support his contention.

CUP #356 Ronnie Dedmon, applicant (Parcel ID# 77435 and 77436) A request for a conditional use permit to establish a self-storage facility in the B-G (General Business) district and Eastern Lincoln Development District (ELDD). The proposed 2.0-acre site is located on the north side of Campground Road and west side of Dusty Ridge Court in Catawba Springs Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the Planning Board's recommendation to approve CUP #356 – Ronnie Dedmon, applicant, and findings of fact, substituting #3 with:

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

FACTUAL REASONS CITED: This property is adjoined by property zoned business to each side, but residential to the rear. Landscape buffers will be provided along the roads and along the rear of the property. The outdoor storage area will be screened.

WSCUP #22 Ronnie Dedmon, applicant (Parcel ID# 77435 and 77436) A request for a watershed conditional use permit to use the high-density option in the Catawba River/Lake Norman WS-IV Protected Area. The applicant is proposing to develop a 2.0-acre site for a self-storage facility. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. The property is located on the north side of Campground Road and west side of Dusty Ridge Court in Catawba Springs Township.

The Planning Board voted 9-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the Planning Board's recommendation to approve WSCUP #22 – Ronnie Dedmon, applicant, and the findings of fact, substituting #3 with:

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

FACTUAL REASONS CITED: This property is adjoining by property zoned business to each side, but residential to the rear. Landscape buffers will be provided along the roads and along the rear of the property. The outdoor storage area will be screened.

PCUR #140-2A Westport Construction Partners, LLC (Parcel ID# 91829) A request to amend a conditional use planned development district to alter the layout of an area approved for 74 zero lot-line houses and to allow 49 additional zero-lot-line houses in a portion of an area approved for 52 single-family detached houses, decreasing the number of single-family detached houses by 19. The request involves a 36.7-acre tract located south of Shanklin Lane and north of Lake Shore Road South in Catawba Springs Township.

The Planning Board voted 6-2 to recommend approval.

Commissioner Oakes stated that as a conditional use plan, Planning Board members and County Commissioners are legally prohibited from discussing the application with any interested party, including among themselves except in the public meetings, and that includes reading any emails on the subject. That is why a number of residents are unhappy with the apparent unresponsiveness of the elected officials. He said he personally does not look forward to spending 30 days in jail, despite the allegedly wonderful food served by our Sheriff.

This entire application is legally messy because it involved changing an already approved plan. It is not possible to restrict the applicant more than the original approval, so their review has to be confined to the changes that have submitted and not to a review of the entire plan.

Another thing that makes this messy is the lack of the public involvement meeting. He said he believes that should have happened and should happen. Commissioner Oakes said the applicant did not submit any information concerning the value of adjoining properties and the burden of proof is on him. He also asked for a plan that is harmonious with the surrounding area.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to table this application for a new public hearing, which will also go back to the Planning Board, with a request that the applicant hold a public meeting with the local residents.

Andrew Bryant pointed out that this would not be the normal community involvement meeting, but only a meeting with residents. Commissioners could not attend this meeting.

Public Hearing Regarding Proposed Installment Financing with Carolina Bank – Deanna Rios:

The Lincoln County (the “County”) Board of Commissioners (the “Board”) held a regular meeting at the Citizens Center, Commissioners’ Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M. on June 20, 2016. The following Commissioners were:

PUBLIC HEARING

The Chairman announced that this was the hour, day and place fixed for a public hearing held pursuant to Sections 160A-20(g) of the North Carolina General Statutes, as amended, for the purpose of considering (1) whether the Board of Commissioners for the County (the “Board”) should approve an installment financing contract under which the County would obtain financing pursuant to Section 160A-20 of the North Carolina General Statutes, as amended, in an amount not to exceed \$13,000,000 for the purpose of accomplishing the financing described in the Notice of Public Hearing and under which the County would secure the repayment by it of moneys advanced pursuant to such contract by granting a lien on a portion of property relating to the financing.

The Chairman announced that the notice of the public hearing was published in the Lincoln Times-News at least ten days before June 20, 2016.

It was requested that the Clerk to the Board inquire to determine whether there were any persons who wished to speak at the public hearing. The names, addresses and testimony of the persons who were present and who offered comments on the proposed installment financing contract, pursuant to or who responded in writing to the notice of public hearing, are as follows:

None presented.

After the Board had heard all persons who had requested to be heard, Commissioner Beam moved that the public hearing be closed. The motion was seconded by Commissioner Patton and was unanimously adopted.

* * *

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

RESOLUTION APPROVING AN INSTALLMENT FINANCING CONTRACT WITH CAROLINA BANK AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the Board of Commissioners of the County duly conducted a public hearing today regarding an installment financing contract;

WHEREAS, there have been available at this meeting drafts of the forms of the following:

- (1) Installment Financing Contract (the “Contract”) between the County and Carolina Bank (the “Bank”); and
- (2) Deed of Trust and Security Agreement (the “Deed of Trust”) from the County to a trustee for the benefit of the Bank.

WHEREAS, the Board of Commissioners of the County wants to approve the Contract and the Deed of Trust and to authorize other actions in connection therewith; and

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

1. Each of the Contract and the Deed of Trust, in the form submitted to this meeting, is hereby approved, and the Chairman of the Board, the County Manager, the Finance Director, and the Clerk to the Board are each hereby authorized and directed to execute and deliver each of those documents, on behalf of the County, with such changes, insertions or omissions as each may approve, the execution thereof by any of them to constitute conclusive evidence of such approval.
2. The Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board and the County Attorney are each hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this Resolution and to effect the installment financing pursuant to the Contract. Execution of the Contract by the Chairman of the Board, the County Manager or the Finance Director, shall conclusively evidence approval of all such details of the financing.
3. All actions of the County effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the documents referred to above.
4. This Resolution shall become effective immediately upon its adoption.

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

AYES: Mitchem, Beam, Patton, Oakes

NAYS: None

* * *

Public Hearing – Industrial Development Incentive Grant for Existing Industry: Kara Brown presented the following information concerning Cataler.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Resolution to Adopt Economic Incentive Grant Agreement with Cataler.

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

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

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

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

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

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

This 20th day of June, 2016.

Cecelia Martin, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

ARTICLE I.

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 20th day of June, 2016 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and CATALER, a North Carolina corporation (hereinafter referred to as “CATALER”).

WITNESSETH:

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

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

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

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

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

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

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

1. On or before June 20, 2016, CATALER shall begin installation of an equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), CATALER shall make an investment upon such site in building/land and/or machinery and equipment of \$9,027,227 (the expected capital investment) of which

\$6,319,058.90 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.

3. Within two years of the effective date of this agreement, CATALER shall provide at such site at least 6 new jobs paying average weekly wages of \$872.80 plus benefits.

4. In consideration of the performance of the aforesaid obligations by CATALER, the County will provide cash grants to CATALER of \$28,957.09 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to CATALER within 30 days after CATALER has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

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

6. a. In the event that the value of the investment actually made by CATALER pursuant to this agreement is greater or less than the Expected Capital Investment then the grant will be equitably adjusted upward or downward on a pro-rata basis.

b. In the event that the number of people in qualifying jobs actually employed by CATALER pursuant to this Agreement in any year during the term of the Agreement is fewer than the Expected Number of Jobs, then the County may, in its discretion, reduce the amount of the Grant to be paid for the year (or seek reimbursement for the Grant already paid for said year) in the amount of \$1,000.00 per job shortfall.

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

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

CATALER

By: _____
President

LINCOLN COUNTY

By: _____
Cecelia Martin, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

Public Comments: Vice Chair Mitchem opened Public Comments.

Rudy Bauer spoke concerning traffic on Business 16 and asked if there was any way to stop semis from traveling this road. Commissioner Oakes said he will ask DOT at the public meeting this week.

Robert Avery asked the Board to appoint someone on the Board of Equalization and Review that represents people who live in manufactured homes.

Being no additional speakers, Vice Chair Mitchem closed public comments closed.

Mountain Island Educational State Forest Update and Request: Laura Shidal, Forest Supervisor, with the Mountain Island Educational State Forest, presented the following information:

- The Mountain Island Educational State Forest project was started back in 1998
- The Forest is managed by the North Carolina Forest Service
- The North Carolina Forest Service has seven Educational State Forests across the State
- All Educational State Forests are open to the general public, all except, Mountain Island Educational State Forest
- The Mountain Island Educational State Forest is open to visitors on an appointment basis

- Since 2011, the Forest has had over 13,000 students attend, 519 Ranger-lead classes and hosted over 34,000 visitors by appointment.
- The Mountain Island Educational State Forest is composed of leased lands
- All lands are leased on a long-term 75-year lease
- The lands are owned by the City of Gastonia, Lincoln County and Gaston County
- All the lands that compose the Forest, have Conservation Easements attached. The lands are perpetually protected to ensure that the drinking water in Mountain Island Lake stays in quality condition.
- Great strides have been made in the development of the Forest, except in the area of infrastructure
- The Mountain Island Educational State Forest needs an Education Center.
- The North Carolina Forest Service has plans for the center as well as the development of the entire infrastructure (education center, accompanying trails and shelters)
- Funding the capital side of this project has been a series of hurdles
- The Mountain Island Educational State Forest and North Carolina Forest Service under the umbrella of the North Carolina Department of Agriculture and Consumer Services are being joined by the North Carolina Association of Soil and Water Conservation Districts and the North Carolina Foundation for Soil and Water Conservation, as well as, Carolina Land and Lakes Resource Conservation and Development Council to revitalize a private funding campaign for the Education Center at Mountain Island Educational State Forest.
- Individuals from each of the aforementioned groups have been brought together to form the Mountain Island Educational State Forest Coordinating Committee
- My request from the Committee, to the Lincoln County Commissioners is two-fold;

- 1) the committee would like permission to boast the continued support of the County Commissioners of Lincoln County, the committee would like a “Letter of Support” for the project if it is the wish of the Lincoln County Commissioners to continue to support the project.
- 2) The Mountain Island Educational State Forest Coordinating Committee would also like to request permission to use Lincoln County’s logo on letters that will be presented to potential private donors.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the request as presented.

Health Department and Government Center Update: Don Chamblee, Public Works Director, gave an update on the Health Department and Government Center. He introduced Charles Todd, with Little and Associates.

Approval of Sole Source Purchase of Caterpillar D6T XW Track Type Tractor for the Landfill: Don Chamblee presented the following:

Public Works is requesting that this item be approved for sole source purchase to permit standardization with Caterpillar equipment at the Lincoln County Landfill. This dozer will replace the 2006 dozer that was recently damaged beyond repair by an engine fire. The replacement dozer will be partially funded by the insurance payout from the damaged dozer.

Public Works requests approval to purchase the Caterpillar D6T XW Track Type Tractor for \$386,764.63.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Sole Source Purchase a Caterpillar D6T XW Track Type Tractor for \$386,764.63.

Renewal of Odor Control and Corrosion Control with Evoqua Water Technologies – Don Chamblee: Mr. Chamblee presented the following:

Lincoln County Public works is currently in a maintenance agreement with Evoqua Water Technologies for odor and corrosion control. The staff recommends to continue with the annual agreement.

In October 2008, Lincoln County Public Works entered into an agreement with Siemens (currently Evoqua) Water Technologies to install and maintain odor control systems at Sewer Pump Station Nos. 11, 12, and 28 for a trial period to control high levels of hydrogen sulfide (H₂S) which resulted in heavy odor and corrosion. After a successful trial period Lincoln

County Public Works gained approval in January 2009, to install and maintain the same technology at Sewer Pump Station Nos. 3, 4, and 5 also to control high levels of hydrogen sulfide (H2S) with the same success.

The odor control equipment at these pump stations is owned and maintained by Evoqua Water Technologies and Lincoln County pays a flat monthly fee for the service. Lincoln County Public Works has received very few complaints concerning odor and has observed no new corrosion issues concerning these pump stations.

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

Capital Project Ordinance Amendment #8, Budget Ordinance Amendment #12 & #13:
Deanna Rios presented the Amendments.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve Capital Project Ordinance Amendment #8, Budget Ordinance Amendment #12 & #13.

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

County Manager's Report: Mr. Atkins reported that employees will receive their pay increase on the July 28 paycheck, which will be the first payday in July.

He said they will be meeting with Davenport concerning the remaining school bond money.

Mr. Atkins said they continue to work with the Judges to update courtroom 3. They are waiting on the courts to send someone from facilities to continue their discussions.

County Attorney's Report: Mr. Deaton said an action was filed against Mr. Joseph Gibson, the former employee who used a gas card. He has signed a consent judgement for the entire amount owed and will make payments.

County Commissioners' Report: Commissioner Oakes said this Thursday from 4 – 7, the DOT will present the traffic improvement plans at the Citizens Center.

Vacancies/Appointments: None reported.

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

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Vice Chair
Board of Commissioners