

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, JUNE 5, 2017**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on June 5, 2017, at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Bill Beam, Chair  
Martin Oakes, Vice Chair  
Richard Permenter  
Anita McCall  
Carrol Mitchem

Planning Board Members Present:

Christine Poinsette, Chairman  
Dr. Crystal Mitchem, Secretary  
Jamie Houser  
Floyd Dean  
Keith Johnson  
Todd Burgin  
Greg Smith

Others Present:

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

**Call to Order:** Chairman Beam called the meeting to order. He led in a Moment of Silence and the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, June 5, 2017**  
**6:30 PM**

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

**\*The meeting will begin in the Auditorium\***

Call to Order - Chairman Beam

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Approval of Minutes
3. Adoption and Presentation of Joshua Lee Warren Memorial Proclamation - Gary Farmer
4. Strata Solar/Dellinger Matter (CUP 327) Deliberation on Remand - Wesley Deaton  
    \*\*At this time, the Board will take a brief recess and will continue the meeting in the  
    Commissioners Room on the 3rd floor .\*\*
5. Zoning Public Hearings - Randy Hawkins

CUP #365 Geno Corbisiero, applicant (Parcel ID# 77943) A request for a conditional use permit to sell vehicles in the I-G (General Industrial) district. The proposed site is part of a 2.9-acre parcel located at 6311 Denver Industrial Park Road in Catawba Springs Township.

CUP #366 No Borders Consulting Group, applicant (Parcel ID# 86081) A request for a conditional use permit to operate a day care center in the I-G (General Industrial) district. The 5.2-acre parcel is located on the south side of South Matthews Church Road about 2,000 feet east of Finger Mill Road in Lincolnton Township.

CZ #2017-2 Vasiliy Sushch, applicant (Parcel ID# 32447 and 32510) A request to rezone 4.5 acres from R-T (Transitional Residential) to CZ I-G (Conditional Zoning General Industrial) to permit an existing 5,000-square-foot building to be used for offices, warehousing and as a base for a limited trucking operation. The property is located at 6046 Nolen Acres Lane, on the north side of N.C. 73 about 1,500 feet east of Beth Haven Church Road, in Catawba Springs Township.

ZMA #636 Jamie Tinsley, applicant (Parcel ID# 31505) A request to rezone 1.2 acres from R-T (Transitional Residential) to R-SF (Residential Single-Family). The property is located at 336 N. Little Egypt Road, on the east side of Little Egypt Road about 2,200 feet north of N.C. 73, in Catawba Springs Township.

UDO Proposed Amendments #2017-2 Lincoln County Planning & Inspections Department, applicant. A proposal to amend Section 2.2 of the Lincoln County Unified Development Ordinance to show that county facilities are permitted uses in all zoning districts as currently stated in Section 9.11.1.D, and to stipulate that state and federal facilities not otherwise listed as a conditional use are permitted uses in the O-R, B-N, B-G, I-L and I-G districts.

UDO Proposed Amendment #2017-3 Lincoln County Planning & Inspections Department, applicant. A proposal to amend Section 9.2.2.C of the Lincoln County Unified Development Ordinance to require corporate applicants to provide a certificate of good standing from the jurisdiction of incorporation and, in the case of an applicant registered in a jurisdiction other than North Carolina, to provide proof that it has authority to transact business in North Carolina prior to undertaking any development

work.

6. Approval of 2 Performance Guarantee Extensions for Fox Chase Subdivision: One for sidewalks and one for an emergency turnaround at the end of the cul-de-sac in Phase 1 - Jeremiah Combs
  7. Public Hearing - Fire Districts Budget
  8. Motion to Adopt Lincoln County Fire Districts Tax Fund Budget Ordinance for Fiscal Year 2017-2018
  9. Public Hearing - Fiscal year 2018 Budget and CIP
  10. Motion to Adopt the Lincoln County Budget Ordinance for Fiscal Year 2017-2018
  11. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
  12. Approval of acceptance of \$2,000 Lincoln County Community Fund Grant award for 2017-2018 - Jennifer Sackett
  13. Approval of acceptance of \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant for 2017-2018 - Jennifer Sackett
  14. Approval of sole source purchase from Evolve, Inc. in the amount of \$2,045.00 for the Library - Jennifer Sackett
  15. Budget Ordinance Amendment #10
  16. Capital Project Ordinance Amendment #7
  17. Grant Project Ordinance #5
  18. Other Business
- Adjourn

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to adopt the agenda as presented.

**Approval of Minutes:** **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the May 1, 2017 and May 15, 2017 minutes as presented.

**Adoption and Presentation of Joshua Lee Warren Memorial Proclamation** - Gary Farmer asked the Board to approve the Joshua Lee Warren Memorial Proclamation.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the Joshua Lee Warren Memorial Proclamation.

The Board presented the Proclamation to the family of Mr. Warren.

### **Joshua Lee Warren Memorial Proclamation**

**Whereas**, the members of Alexis Fire Department and East Lincoln Fire Department provide invaluable service to the citizens of Lincoln County, we call on you today to remember Firefighter Joshua Lee Warren, who gave the ultimate sacrifice on June 16, 2016 in service to our community, and

**Whereas**, we pray for and express our most sincere sympathy to his family, friends, and his fellow firefighters, and

**Whereas**, we are continually mindful that the greatest love anyone can show is to give their life for others, and

**Whereas**, it may be understood that his death was a line of duty death ,

**Be It Therefore Proclaimed**, that Firefighter Joshua Lee Warren be remembered here today and the record of his service and achievements be made public in this place, and

**Be It Further Therefore Proclaimed**, that our thoughts and best wishes be extended to Alexis Fire Department, East Lincoln Fire Department, Lincoln County, and most importantly his family.

**Be It Proclaimed** , a copy of this proclamation is placed in the minutes of the Lincoln County Commissioners and a copy provided to Firefighter Warren’s family, Alexis Fire Department and East Lincoln Fire Department.

**Now, Therefore Be It Finally Proclaimed, the Lincoln County Board of Commissioners**, do hereby proclaim June 16th as **Joshua Lee Warren Day** in Lincoln County.

Adopted and proclaimed this the 5<sup>th</sup> Day of June, 2017.

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Bill Beam  
Chairman

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Martin Oakes  
Vice Chairman

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Carrol Mitchem  
Commissioner

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Anita McCall  
Commissioner

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Richard W. Permenter  
Commissioner

**Strata Solar/Dellinger Matter (CUP 327) Deliberation on Remand:** The transcript, provided by Kimberly S. Crosby, BA, CVR-M of Blue Ride Court Reporting, is hereby incorporated by reference and attached to these minutes.

Chairman Beam called for a 15 minute recess, in which the Board moved the meeting to the 3<sup>rd</sup> floor Commissioners Room., where he called the meeting back to order.

**New Business/Advertised Public Hearings:** Mr. Wesley Deaton gave information on the zoning cases.

**CUP #365 Geno Corbisiero, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to sell vehicles in the I-G (General Industrial) district. The proposed site is part of a 2.9-acre tract that contains a multitenant building complex. The application calls for a maximum of 10 vehicles to be on display. Under the Lincoln County Unified Development Ordinance, vehicles sales is a conditional use in the I-G district.

#### **SITE AREA AND DESCRIPTION**

The proposed site is located at 6311 Denver Industrial Park Road in Catawba Springs Township. This property is surrounded by property zoned I-G. Land uses in this area include industrial and business. Public water and sewer are available at this location. This property is part of an area designated by the Lincoln County Land Use Plan as industrial.

Commissioner Oakes asked if there are more auto sales in the area. Mr. Hawkins responded that next door there is a vehicle sales location that was approved a few years ago through a CUP.

Keith Johnson asked about enforcement of the 10 vehicle limit. Mr. Hawkins said staff will enforce.

Chairman Beam opened the public hearing concerning CUP #365 – Geno Corbisiero, applicant.

Geno Corbisiero, applicant, said he is requesting a Conditional Use Permit on a three acre site that is designated GI. He said he will lease a 200 square foot office and have 10 designated spots for retail auto sales. He said 90% of his sales are internet and the site has no road frontage. He said this site should not affect the area with regards to traffic. Mr. Corbisiero said he has been in the automotive sales industry for over 30 years.

Mr. Corbisiero stated that he prepared the proposed findings of fact for the application and he incorporates them into his testimony today.

Mr. Todd Burgin, Planning Board Member, asked Mr. Corbisiero if he plans on doing any on site oil changes or auto detailing. Mr. Corbisiero said he will not do any service on the vehicles on site and if anything does need to be done to the autos, it will be by an outside source.

Lee Beatty Killian, 4153 Highway 16 North, Denver, said this was part of their farm and their family developed it. He said they see no problem with him selling cars there.

Being no additional speakers, Chairman Beam closed the public hearing.

**CUP #366 No Borders Consulting Group, applicant**

The applicant is requesting a conditional use permit to operate a day care center in the I-G (General Industrial) district. The proposed plan calls for a 3,325-square-foot facility that could be doubled in size. Under the Unified Development Ordinance, a stand-alone day care center is a conditional use in the I-G district. (A day care center as an accessory use to a manufacturing plant or other facility is a permitted use in the I-G district.)

**SITE AREA AND DESCRIPTION**

The proposed 5.2-acre site is located on the south side of Saint Matthews Church Road about 2,000 feet east of Finger Mill Road in Lincolnton Township. This property is adjoined by property zoned I-G, R-T (Transitional Residential) and R-R (Rural Residential). Land uses in this area include industrial, residential and agricultural. Public water and sewer are available at this location. This property is part of an area designated by the Lincoln County Land Use Plan as industrial.

Commissioner Oakes asked why this is a conditional use instead of just a use by right.

Mr. Hawkins said about a year ago, staff proposed a text amendment that would have made a daycare center a permitted use in the General Industrial District, but there were concerns expressed by Board members that certain locations in Industrial areas might not be appropriate for daycare centers so the Planning Board recommended and the Commissioners approved making a stand-alone daycare center a conditional use. A daycare center that is part of a manufacturing plant was permitted by right.

Chairman Beam opened the public hearing concerning CUP #366 – No Borders Consulting Group, applicant.

Renaldo Panico Peres, 1702 Newland Road, Denver, said he has a client from Brazil that is interested in setting up a childcare facility in the industrial park. He said it will be managed by Da Vinci Academy. Mr. Peres incorporated his findings of facts into his testimony.

David Lutz, 7890 Silver Jade Drive, Denver, with CES Group Engineers said he is here to answer any questions the Board has.

Kara Brown, 7225 Caley Street, Denver, spoke in favor of the request saying a daycare that close to the park would be a benefit that they can market to bring new industry into Lincoln County.

Being no additional speakers, Chairman Beam closed the public hearing.

**CZ #2017-2 Vasiliy Sushch, applicant:** Randy Hawkins said the application was amended last week and an email was sent out concerning the changes.

The applicant is requesting the rezoning of 4.5 acres from R-T (Transitional Residential) to CZ O-R (Conditional Zoning Office Residential) to permit an existing 5,000-square-foot building to be used for offices. This application was amended last week and an email was sent out regarding this. The proposed use is offices only.

Under the UDO, an applicant may modify an application to propose a district of less intensity than the original one proposed. Since this is a conditional zoning, if approved, the use would be limited to offices only and only to the existing building.

This existing building was built as a commercial building in 1988, six years prior to the enactment of zoning in this area. According to the previous owner, the building had been used by an insulation contractor, but the business ceased operations there several years ago. Under the Unified Development Ordinance, if a grandfathered business ceases operation for 6 months, it loses its grandfather status.

The applicant purchased the property last year and also purchased some adjoining lots.

Included with the application are minutes from a community involvement meeting that was held on March 28 and from a follow-up meeting that was held on April 27. Tax records show the existing building was constructed in 1988, six years prior to the enactment of zoning in this area. According to the previous owner, the building had been used by an insulation contractor, but the business ceased operations there several years ago. Due to the inactivity, the property lost its grandfathered status. The applicant purchased the property last year.

#### **SITE AREA & DESCRIPTION**

The property is located at 6046 Nolen Acres Lane, on the north side of N.C. 73 about 1,500 feet east of Beth Haven Church Road, in Catawba Springs Township. It is surrounded by property zoned R-T. Land uses in this area are primarily residential. This property is part of an area designated by the Lincoln County Land Use Plan as Rural Residential, suitable for low-density residential development.

This would be the only property zoned O-R in this area, so it does raise a spot zoning issue. Under NC Law, spot zoning is not specifically prohibited, but the courts have found there has to be a rational basis for zoning a property differently from the surrounding property. In this case, staff is recommending approval in that what distinguishes this property from the surrounding property is the existing commercial building that was used for business previously and also that the proposed rezoning would limit the use of the property to offices only.

Chairman Beam opened the public hearing for CZ #2017-2.

There was a discussion about grandfathered uses.

Keith Johnson, Planning Board member, asked if the conditional zoning would allow access to Hwy. 73 from these parcels. Mr. Hawkins said a driveway permit would be from NCDOT, which would be unlikely since there is already an access from a side road. Mr. Johnson said if this is granted, that decision would be taken away from the County. Mr. Hawkins responded that since another access is not on the site plan, it would be considered a major modification that would need to come back before the Board.

Lisa Valdez, Attorney for the applicant, stated that Randy covered most everything concerning the application. Mr. Sushch and his wife purchased this property a year ago and his intent for the property across Nolan Acres is to build a house there for his family. The application has been modified for office use. The issue with the trucks, one was moved today and one will be moved soon.

Ms. Valdez said the applicant would like to use the site for office purposes, to build a home on adjacent property and for farming/agricultural uses. She said he does not plan additional access on Highway 73, he will use current access on Nolan Acres.

Being no additional speakers, Chairman Beam closed the public hearing.

**ZMA #636 Jamie Tinsley, applicant:** Jordan Tubbs, Planner II, presented the following:

The applicant is requesting the rezoning of 1.2 acres from R-T (Transitional Residential) to R-SF (Residential Single-Family). The stated purpose of the request is to subdivide the property into two lots for single-family homes (see information on minimum lot size below).

The property is located at 336 N Little Egypt Road, on the east side of N Little Egypt Road about 2,200 feet north of N.C. 73, in Catawba Springs Township. It is adjoined on all sides by property zoned R-T. Public water and sewer are available at this location. Land uses in this area include residential and institutional (church and school). This property is part of an area designated by the Lincoln County Land Use Plan as Mixed Residential, suitable for a mixture of housing types and densities of 2-8 dwelling units per acre, with density being proportional to the amount of open space preserved.

#### Additional Information

##### **Permitted uses**

Under current R-T zoning: manufactured homes, duplexes, modular homes, site-built homes,



church.

Under proposed R-SF zoning: modular homes, site-built homes, church.

Chairman Beam opened the public hearing concerning ZMA #636 – Jamie Tinsley, applicant.

Jamie Tinsley, applicant, stated that the property is owned by his mother and he has talked with Madison Homes about building a home on this site. The home will be on county water and sewer.

Being no additional speakers, Chairman Beam closed the public hearing.

**UDO Proposed Amendments #2017-2 Lincoln County Planning & Inspections Department, applicant.**

Staff is proposing amendments to Section 2.2 of the Lincoln County Unified Development Ordinance to show that county facilities are permitted uses in all zoning districts as currently stated in Section 9.11.1.D, and to stipulate that state and federal facilities not otherwise listed as a conditional use are permitted uses in the O-R, B-N, BG, I-L and I-G districts.

This proposal stems from a planned donation of land to the county for a site for a new West Lincoln branch library. The proposed site is zoned R-SF. Currently, the UDO's Use Table shows that a library (and a companion listing of a museum) is permitted only in the O-R, B-N and B-G districts and is a conditional use in the B-C district. The Use Table shows that a public facility (defined as "a building, facility or area owned or used by any department or branch of Lincoln County, the State of North Carolina, or the Federal Government") is a conditional use in all zoning districts. However, Section 9.11.1.B states that facilities owned by Lincoln County are not subject to conditional use review and are considered permitted uses, notwithstanding the provisions of Section 2.2 to the contrary.

The exemption from conditional use review for county facilities was included in the UDO because it makes little sense to put the Board of Commissioners in the position of deciding through a zoning hearing process whether or not to approve a project that requires the board's approval through a plan review and budgetary process. Instead of this exemption appearing only under the conditional use section, the proposed amendments would add it to the Use Table.

This proposal would also delete library as a listing (so that the location of a county library wouldn't be limited to business districts) and revise the museum listing to "privately owned museum."

In addition, this proposal would add a listing, "state or federal facility not otherwise listed as a conditional use," and show that such a use is permitted in the O-R, B-N, B-G,

I-L and I-G districts. This would permit state and federal offices, including post offices. Potential state or federal facilities that would remain a conditional use include a correctional facility and a landfill.

Following is the section of the UDO that exempts county facilities from conditional use review:

## **§9.11. Conditional Use Review**

### **§9.11.1 Applicability**

**D.** Notwithstanding the provisions of §2.2 to the contrary, land uses owned by Lincoln County shall not be subject to the conditional use review requirements of this section. Public facilities, major and minor utilities and other land uses owned by Lincoln County shall be considered Permitted Uses.

Following are the proposed amendments to the Use Table:

**§2.2. Use Table**

Civic Uses	R-R	R-T	R-S	R-SF	R-CR	R-14	R-20	R-MR	R-MF	O-R	B-N	B-G	B-C	I-L	I-G	Use Standard
<del>Privately owned</del> museum, library										P	P	P	C			
Public County facility	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	CP	§4.3.5
State or federal facility not otherwise listed as a conditional use										P	P	P		P	P	§4.3.5

Keith Johnson asked the most hazardous facility owned by Lincoln County. He said the landfill, sewer plant, water plant, etc. Mr. Johnson said if this approved, any of these uses can be put anywhere. Mr. Hawkins said they can subject to the Board's approval through budgetary and plan review.

There was a lengthy discussion about allowing any government uses being allowed without a hearing.

Chairman Beam opened the public hearing concerning UDO Proposed Amendments #2017-2 - Lincoln County Planning & Inspections Department, applicant

Being no speakers, Chairman Beam closed the public hearing.

### **UDO Proposed Amendment #2017-3 Lincoln County Planning & Inspections Department, applicant.**

Staff is proposing an amendment to Section 9.2.2.C of the Lincoln County Unified Development Ordinance to require corporate applicants to provide a certificate of good standing from the jurisdiction of incorporation and, in the case of an applicant registered in a jurisdiction other than North Carolina, to provide proof that it has authority to transact business in North Carolina prior to undertaking any development work.

Following is the full text of the proposal:

#### **§9.2.2. Application Requirements**

##### **C. Completeness Review**

1. All applications shall be sufficient for processing before the Director is required to review the application.
2. An application shall be sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this UDO.
3. The presumption shall be that all of the information required in the application forms is necessary to satisfy the requirements of this section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.
4. Once the application has been determined sufficient for processing, copies of the application shall be referred by the Director to the appropriate reviewing entities.
5. The Director may require an applicant to present evidence of authority to submit the application.
6. If an applicant is a corporate entity (corporation, LLC, LLP, general partnership or other), the application shall include a certificate of good standing from the applicant's jurisdiction of incorporation. If an applicant is a corporate entity registered in a jurisdiction other than North Carolina, the applicant shall obtain and provide proof that it has obtained a certificate of authority to transact business in North Carolina prior to undertaking any development work.

Chairman Beam opened the public hearing concerning UDO Proposed Amendments #2017-3 - Lincoln County Planning & Inspections Department, applicant

Being no speakers, Chairman Beam closed the public hearing.

**Approval of 2 Performance Guarantee Extensions**: Jeremiah Combs presented the following:

This is a request for 2 Performance Guarantee Extensions for Fox Chase Subdivision: one for sidewalks and one for an emergency turnaround at the end of the cul-de-sac road in Phase 1

Performance Guarantees must be extended if improvements are not complete at the end of the contract period. Extensions shall be allowed so long as the developer is making good faith efforts to complete improvements. Performance Guarantees must be in the

amount of not less than 1.25 times the estimated cost of construction of the improvements, as required by section 5.10 of Lincoln County UDO.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve the Performance Guarantee Extensions as presented.

**Public Hearing – Fire Department Budgets:** Chairman Beam opened the public hearing for the Fire Department Budgets.

Being no speakers, Chairman Beam closed the public hearing.

Commissioner Oakes expressed concerns with the way certain fire departments do their budgets with little community involvement and how others

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to adopt the Lincoln County Fire Districts Tax Fund Budget Ordinance for Fiscal Year 2017-2018.

**LINCOLN COUNTY  
FIRE DISTRICTS TAX FUND  
BUDGET ORDINANCE  
FY 2017-18**

There is hereby levied a tax at the rate shown below, per one hundred dollars (\$100) valuation of property listed for taxes as of January 1, 2017; located within the eleven (11) special fire districts for raising of revenue for said special fire districts. Estimated totals of valuation of property for the eleven special fire districts for the purpose of taxation are as follows:

Fire District	Assessed		2017-18	2017-18
	Value	Rate	Tax Revenue	Tax Appropriations
Alexis	320,700,000	0.1165	373,616	373,616
Boger City	661,713,000	0.0999	661,052	661,052
Crouse	169,907,000	0.0640	108,741	108,741
Denver	1,878,628,000	0.1150	2,160,423	2,160,423
East Lincoln	2,284,100,000	0.0890	2,032,849	2,032,849
Howard's Creek	244,623,000	0.1223	299,174	299,174
North 321	756,100,000	0.0400	302,440	302,440
North Brook Pumpkin Center	344,737,000	0.1000	344,737	344,737
	494,267,000	0.0970	479,439	479,439

South Fork	270,900,000	0.1250	341,464	341,464
Union	265,099,000	0.1250	331,374	331,374

There is appropriated to the special fire districts from the proceeds of this tax the amounts shown under the appropriation column, for use by the special fire districts in such manner and for such expenditures as is permitted by law from the proceeds of this tax. In the event the actual net proceeds from the tax levies exceed or fall short of the appropriated amounts, the actual net proceeds from the tax shall constitute the appropriation from the tax levy.

**Public Hearing – Lincoln County Budget Ordinance FY 2017-18:** Chairman Beam opened the public hearing for the Lincoln County Budget Ordinance.

Being no speakers, Chairman Beam closed the public hearing.

Commissioner Mitchem asked the County Manager about the capital improvement money in the budget to be spent at the Airport. Mr. Atkins answered that this is a \$4 million debt that will be financed over a period of 20 years. This debt will not be realized until FY 19 and the debt payment will be in the amount of \$365,000, which includes principal and interest for 20 years. This will be used for the grading project that is in the center, between the road and the airport buildings. Commissioner Mitchem said he will not support the budget with this item in it.

**UPON MOTION** by Commissioner Permenter, the Board voted 4 -1 (Mitchem against) to adopt the Lincoln County Budget Ordinance for Fiscal Year 2017-2018.

**LINCOLN COUNTY  
BUDGET ORDINANCE  
FY 2017-18**

**BE IT ORDAINED** by the Board of County Commissioners of Lincoln County, North Carolina:

**Section 1.** The following amounts are hereby appropriated in the General Fund for the operation of the County government and its activities for the fiscal year beginning July 1, 2017 and ending June 30, 2018, in accordance with the chart of accounts heretofore established for Lincoln County.

**GENERAL GOVERNMENT**  
Central Services

**\$ 11,208,771**

Governing Body  
County Manager  
Human Resources  
Finance  
Information Technology  
Safety & Training  
Tax Department  
Legal  
Elections  
Register of Deeds  
Buildings and Grounds  
Forestry  
Outside Agency

**PUBLIC SAFETY**

**27,077,647**

Sheriff  
Communications  
Jail  
Jail Commissary  
Emergency Management  
Fire Marshal  
Volunteer Fire Department  
Planning and Inspections  
Medical Examiner  
Emergency Medical  
Animal Services  
District Court  
Rescue Squads  
Outside Agency

**TRANSPORTATION**

**1,306,588**

Airport Authority  
Transportation TLC  
Gaston Skills

**ECONOMIC AND PHYSICAL DEVELOPMENT**

**2,222,098**

Soil Conservation  
Economic Development  
Cooperative Extension  
Outside Agency

<b>HUMAN SERVICES</b>	<b>19,254,743</b>
Health Department	
Mental Health	
Social Services	
Veterans Services	
Juvenile Crime Prevention	
Senior Services	
Gaston Family Health	
 <b>CULTURAL AND RECREATION</b>	 <b>2,540,802</b>
Library	
Recreation	
Historic Properties	
Outside Agency	
 <b>EDUCATION</b>	 <b>21,454,121</b>
Lincoln Center Gaston College	
Schools Current Expense	
Schools Capital Outlay	
 <b>DEBT SERVICES</b>	 <b>12,461,135</b>
General County	
School System	
 <b>TRANSFER TO CAPITAL PROJECT FUND</b>	 <b>1,200,000</b>
 <b>TRANSFER TO SPECIAL REVENUE FUND</b>	 <b>13,250</b>
 <b>CONTINGENCY</b>	 <b>-</b>
 <b>TOTAL GENERAL FUND</b>	 <b>\$ 98,739,155</b>

**Section 2.** It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

<b>AD VALOREM TAXES</b>	
Current Year's Property Taxes	\$ 55,300,000
Prior Year's Property Taxes	1,000,000
Medicaid Hold Harmless	310,000
Local Option 1 cent Sales Tax	6,400,000
Local Option 1st 1/2 cent Sales Tax	4,678,000
Local Option 2nd 1/2 cent Sales Tax	3,515,000
524 Redistribution Sales Tax	1,250,000
Utilities Franchise Tax	230,000
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	<b>\$ 72,683,000</b>
 <b>FEDERAL REVENUES</b>	 9,484,827
 <b>STATE REVENUES</b>	 1,789,496
 <b>INTERGOVERNMENTAL REVENUES</b>	 467,000
 <b>OTHER TAXES AND LICENSES</b>	 759,500
 <b>SALES AND SERVICES</b>	 8,574,548
 <b>INVESTMENT EARNINGS</b>	 80,000
 <b>MISCELLANEOUS</b>	 895,547
 <b>OTHER FINANCING SOURCES</b>	 600,000
 <b>FUND BALANCE APPROPRIATED</b>	 3,405,237
	<hr/>
<b>TOTAL REVENUES</b>	<b>\$ 98,739,155</b>
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Thirty percent (30%) of the proceeds of the first local half-cent sales and use tax (article 40) and sixty percent (60%) of the proceeds of the second local half-cent sales and use tax (article 42) are hereby declared to be included in the appropriation for school capital projects and/or debt service. Any receipts in excess of capital projects and debt service shall be accumulated in the Capital Reserve Fund for Schools until such time as the funds are appropriated for specific projects or debt service.

The remaining proceeds from the two half cent sales and use taxes are hereby appropriated for other general county needs which may include, but not be limited to, debt service, capital projects, capital outlay and operating expenses.



**Section 3.** The following amounts are hereby appropriated as continuing multi-year projects in the School Capital Projects Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Improvements	301,000
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**Total School Capital Projects Improvement  
Project Fund Expenditures**

<b>\$ 301,000</b>
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It is estimated that the following revenues will be available in the School Capital Projects Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Fund Balance Appropriated	301,000
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**Total School Capital Projects Improvement  
Project Fund Revenues**

<b>\$ 301,000</b>
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**Section 4.** The following amounts are hereby appropriated or reserved in the School Capital Reserve Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Transfer to General Fund (Debt Service)	600,000
---	---------

**Total School Capital Reserve Fund  
Appropriations/Reserve**

<b>\$ 600,000</b>
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It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Lottery Proceeds	600,000
------------------	---------

Fund Balance Appropriated	-
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**Total School Capital Reserve Fund Revenues**

<b>\$ 600,000</b>
-------------------

**Section 5.** The following amounts are hereby appropriated in the Law Enforcement Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Operating Expense	15,025
-------------------	--------

**Total**

<b>\$ 15,025</b>
------------------

It is estimated that the following revenues will be available in the Law Enforcement Fund for

the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Controlled Substance Excise Tax	15,000
Interest on Investment	25
Fund Balance Appropriated	-
<b>Total</b>	<b>\$ 15,025</b>

**Section 6.** The following amounts are hereby appropriated in the Federal Law Enforcement Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Operating Expense	10,050
<b>Total</b>	<b>\$ 10,050</b>

It is estimated that the following revenues will be available in the Federal Law Enforcement Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Controlled Substance Tax	10,000
Investment Earnings	50
Federal Forfeited Property	-
<b>Total</b>	<b>\$ 10,050</b>

**Section 7.** The following amounts are hereby appropriated in the Emergency Telephone Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Operating Expenses	443,167
Capital Outlay	-
<b>Total Emergency Telephone Fund</b>	<b>\$ 443,167</b>

It is estimated that the following revenues will be available in the Emergency Telephone Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Phone Service Charges	309,000
Interest on Investments	1,200
Fund Balance Appropriated	132,967
<b>Total Emergency Telephone Fund</b>	<b>\$ 443,167</b>

**Section 8.** The following amounts are hereby appropriated in the Solid Waste Enterprise Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Operating Expenses	3,862,235
Capital Construction	2,000,000
Debt Service	499,893
<b>Total Solid Waste Enterprise Fund Appropriation</b>	<b>\$ 6,362,128</b>

It is estimated that the following revenues will be available in the Solid Waste Enterprise Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

<b>STATE SHARED TAXES</b>	146,109
<b>SALES AND SERVICES</b>	4,204,019
<b>INTEREST REVENUE</b>	12,000
<b>MISCELLANEOUS REVENUES</b>	-
<b>OTHER FINANCING SOURCES</b>	2,000,000
<b>Total Solid Waste Enterprise Fund Revenues</b>	<b>\$ 6,362,128</b>

**Section 9.** The following amounts are hereby appropriated in the Water and Sewer Enterprise Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Operating Expenses	6,734,592
Debt Service	1,935,112
Capital Outlay	424,000
Transfer to Other Funds	1,565,000
<b>Total Water and Sewer Enterprise Fund Appropriation</b>	<b>\$ 10,658,704</b>

It is estimated that the following revenues will be available in the Water and Sewer Enterprise Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

<b>SALES AND SERVICES</b>	10,643,704
<b>INTEREST REVENUE</b>	15,000
<b>MISCELLANEOUS REVENUE</b>	-

**FUND BALANCE APPROPRIATED**

-

**Total Water and Sewer Enterprise Fund Revenues**

**\$ 10,658,704**

**Section 10.** The following amounts are hereby appropriated as continuing multi-year projects in the General County Capital Improvement Project Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Facility Improvement 12,837,831

**Total General County Capital Improvement Project  
Fund Appropriations**

**\$ 12,837,831**

It is estimated that the following revenues will be available in the General County Capital Improvement Project Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Transfer from General Fund 1,200,000  
Grants 1,000,000  
Debt Proceeds 10,637,831  
Sale of Fixed Assets -  
Interest on Investments -  
Other Revenues -

**Total General County Capital Improvement Project  
Fund Revenues**

**\$ 12,837,831**

**Section 11.** The following amounts are hereby appropriated as continuing multi-year projects in the Water and Sewer Capital Improvement Projects Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Water System Improvements 1,200,000  
Sewer System Improvements 365,000

**Total Water and Sewer Capital Improvement Project  
Fund Appropriations**

**\$ 1,565,000**

It is estimated that the following revenues will be available in the Water and Sewer Capital Improvement Projects Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Transfer from Water Fund 1,565,000

Proceeds of Financing	-
-----------------------	---

**Total Water and Sewer Capital Improvement Project  
Fund Revenues**

<b>\$ 1,565,000</b>
---------------------

**Section 12.** The following amounts are hereby appropriated in the Health Insurance Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Health and Consultant Fees	1,249,000
Health Insurance Claims	6,513,000
Flex Account Expenses	-
Reserve	-

**Total Health Insurance Fund Appropriations**

<b>\$ 7,762,000</b>
---------------------

It is estimated that the following revenues will be available in the Health Insurance Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Health Premiums Employer	6,300,000
Health Premiums Employee	1,100,000
Investment Income	12,000
Fund Balance Appropriated	350,000

**Total Health Insurance Fund Revenues**

<b>\$ 7,762,000</b>
---------------------

**Section 13.** The following amounts are hereby appropriated in the Workers' Compensation Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Administrative Fees	20,000
Professional Fees	120,000
Workers' Compensation Claims	350,000
Reserve	60,800

**Total Workers' Compensation Fund Appropriations**

<b>\$ 550,800</b>
-------------------

It is estimated that the following revenues will be available in the Workers' Compensation Fund for the fiscal year beginning July 1, 2017 and ending June 30, 2018:

Workers' Compensation Premiums	550,700
Interest Income	100

**Total Workers' Compensation Fund Revenues**

**\$ 550,800**

**Section 14.** There is hereby levied a unified tax at the rate of 61.1 cents per one hundred dollars (\$100) valuation of property listed for taxes as of January 1, 2017, for the purpose of raising the revenue listed as "Current Year's Property Taxes" in the General Fund in Section 2 of this Ordinance.

This rate of tax is based on an estimated total valuation of property for the purpose of taxation of \$8,840,000 and an estimated collection rate of 98.50 percent. The estimated rate of collection is based on the fiscal 2016-17 collection rate of 99.73 percent.

**Section 15.**

Lincoln County will continue to serve as collection agent for the City of Lincoln for the collection of property taxes, as long as this is mutually agreeable between Lincoln and Lincoln County. Lincoln County shall receive a three percent (3%) collection fee (1-1/2% fee for motor vehicles) for this service, plus unusual expenses as agreed by both parties.

**Section 16.** On June 29, 2002, the Board of County Commissioners adopted "Ordinance for Availability and Use Fees for Solid Waste Disposal Facilities Lincoln County, North Carolina." As stated in the ordinance the fees for availability shall remain in effect until amended. The Solid Waste Availability Fee for fiscal year 2017 - 18 is \$99 per unit rate.

**Section 17.** On August 23, 1993, the Board of County Commissioners adopted "Resolution Concerning Use of Room Occupancy and Tourism Tax" which became effective October 1, 1993. This resolution levies a 3% room occupancy tax on the rental of a room, lodging, or accommodation furnished by a hotel, motel, tourist camp, or similar place within the County. The purpose of this tax is to provide a source of revenue to promote travel and tourism within Lincoln County. Included in this budget is estimated revenue of \$94,000 to be derived from this tax. Also included in this budget are allowable expenditures which may be funded from this revenue source: Chamber of Commerce \$17,500, to advertise, print and distribute information on Lincoln County; Downtown Development Association \$7,500; Historical Properties \$2,480; Historical Association \$41,000; Cultural Development Center \$62,500; for a total of \$130,980.

**Section 18.** This Budget Ordinance, effective July 1, 2017 authorizes the mileage reimbursement rate as the standard mileage rate set by the Internal Revenue Service, which may be revised during the fiscal year. Per Diem without receipts remains the same at \$6.00 for breakfast; \$11.00 for lunch; and \$18.00 for dinner for In State Travel, for out of State travel, GSA rates shall be used.

**Section 19.** The funds that are used in this Budget Ordinance to fund certain elements in the Solid Waste and Public Works operations are non-property tax funds.

**Section 20.** The County Manager, or designee, is hereby authorized to transfer appropriations within a fund as contained herein under the following conditions:

- a. He may transfer amounts among objects of expenditure within a department.
- b. He may transfer amounts up to \$50,000 between departments of the same fund.
- c. He may not transfer any amounts between funds nor from the contingency or from any capital reserve appropriations.

**Section 21.** The County Manager, or designee, is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction, repair projects or design services requiring the estimated expenditure of less than \$50,000.
- b. He may execute contracts for: (1) purchases of apparatus, supplies and materials, or equipment which are within budgeted appropriations, (2) leases of personal property for a duration of one year or less and within budgeted appropriations, and (3) services which are within budgeted appropriations.
- c. He may execute grant agreements to or from public and non-profit organizations, which are within budgeted appropriations, unless a grantor organization requires execution by the Board of Commissioners.
- d. He may execute contracts, as the lessor or lessee of real property, which are of one-year duration or less, if funds therefore are within budgeted appropriations.

**Section 22.** It is the intent of the Board of Commissioners that all departments and divisions, including those under the control of the Sheriff, are limited to the specific number of each position classification agreed upon in the budgeting process, and that no changes in those numbers can be made without the express approval of the Board of Commissioners after a recommendation from the County Manager. The list of the specific numbers of each position classification for the Sheriff's Office is approved hereby as set out below:

<b>Position Title</b>	<b>Number of Full Time Positions</b>
Sheriff	1
Major	1
Captain	2
1st Sergeant	6
Sergeant	13
Court Security Officer	6
Sr. Deputy Sheriff	10

Deputy Sheriff	48
Investigator	21
Lieutenant	7
Financial Manager	1
DCI Specialist	5
Records/Permit Specialist	1
Administrative Assistant	2
Systems Analyst Programmer	1
Logistics Specialist	1

<b>TOTAL FOR SHERIFF</b>	<b>126</b>
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<b>Position Title</b>	<b>Number of Full Time Positions</b>
Admin. Det. Lieutenant	1
Asst. Det. Admin.	1
Administrative Secretary	1
Classification Officer	1
Corporal Detention	4
Deputy Sheriff - Transport	1
Detention Officer	26
Sergeant - Detention	4
Sr. Detention Officer	5
Pre-Trial Release	0
<b>Total for DETENTION</b>	<b>44</b>

**Section 23.** The annual appropriations for all divisions of the Sheriff's Office shall be allocated by the Finance Department on a quarterly basis, with each quarterly allocation being equal to twenty-five (25%) percent of the annual appropriation in each line item. The County Manager is hereby authorized to exceed such a quarterly appropriation in the event an annual contract requires a pre-payment or earlier payment schedule than quarterly. The intent of this section is to authorize expenditures equal to no more than 25% of the annual appropriations during each quarter of the fiscal year.

**Section 24.** Copies of this Budget Ordinance shall be furnished to the County Manager, Clerk to the Board of Commissioners, Finance Director and the Tax Administrator for direction in carrying out their duties.



Adopted this 1st day of June,  
2017.

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Bill Beam, Chair  
Lincoln County  
Board of Commissioners

**ATTEST:**

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Amy S. Atkins  
Clerk to the Board

**Public Comments:** Chairman Beam opened Public Comments.  
Being no speakers, Chairman Beam closed Public Comments.

**Approval of Acceptance of \$2,000 Lincoln County Community Foundation Grant**  
**Award:** Jennifer Sackett, Librarian, asked for the Board's approval of a \$2,000 Lincoln County Community Foundation Grant for 2017-18.

Based on past success and growing demand, the Lincoln County Public Library was awarded a \$2,000 grant to expand its hands-on STEAM programs. STEAM On the Go! Programs incorporate various themes, challenge projects and opportunities for participants to explore coding and technology through active discovery. This grant will go towards the purchase of Code & Go Robotic Mice, Cubelets, and Spheros.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the \$2,000 Lincoln County Community Foundation Grant for 2017-18 as presented.

**Approval to Accept \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant, 2017-2018 for the Reading to Make a Difference! Initiative:** Jennifer Sackett asked for the Board's approval to accept a \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant, 2017-2018 for the Reading to Make a Difference Initiative.

As part of its strategic plan, the library is committed to building an early literacy program which reaches out to all children in Lincoln County and increases their chances to succeed in school. By implementing a Newborn Literacy initiative along with the 1,000

Books Before Kindergarten program, the Lincoln County Public Library intends to strengthen the bond between caregiver and child by fostering a love for reading. The library will work with Carolinas Healthcare System – Lincoln to distribute Newborn Literacy kits and provide early literacy training as part of their prenatal workshops.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve acceptance of the \$50,000 LSTA Grant as presented.

**Approval for Sole Source Purchase of two Ozobot Evo Classroom Kits and two Ozobot Construction Kits from Evolve, Inc. for a total of \$2045.00:** Jennifer Sackett presented the following:

The Lincoln County Public Library is requesting permission to make a sole source purchase of two Ozobot Evo Classroom Kits and two Ozobot Evo Construction Kits from Evolve, Inc. with funds from the regular library budget. These items will enrich and expand our current STEAM (Science, Technology, Engineering, Arts and Math) programs.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the Sole Source Purchase as presented.

**Budget Ordinance #10:** **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Budget Ordinance #10.

**Capital Project Ordinance Amendment #7:** **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Capital Project Ordinance #7.

**Grant Project Ordinance #5:** **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Grant Project Ordinance #5.

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

STATE OF NORTH CAROLINA      GENERAL COURT OF JUSTICE  
   SUPERIOR COURT DIVISION  
COUNTY OF LINCOLN                      15 CVS 384

GARY DELLINGER, VIRGINIA DELLINGER  
and TIMOTHY S. DELLINGER,  
  
Petitioners,  
  
-vs-  
  
LINCOLN COUNTY, LINCOLN COUNTY  
BOARD OF COMMISSIONERS and STRATA  
SOLAR, LLC,  
  
Respondents,  
  
and  
  
TIMOTHY P. MOONEY, MARTHA McLEAN,  
and THE SAILVIEW OWNERS ASSOCIATION,  
  
Intervenors.

6:30 P.M.  
June 5th, 2017  
Lincolnton, North Carolina

LINCOLN COUNTY BOARD OF COMMISSIONERS  
DELIBERATION ON REMAND  
CONDITIONAL USE PERMIT 327

**BLUE RIDGE COURT REPORTING, INC.**  
**104 FIFTH AVENUE, NORTHWEST**  
**HICKORY, NORTH CAROLINA 28601**  
**(828)324-5669 (PHONE/FAX)**

A P P E A R A N C E S

Commissioners: Mr. Bill Beam, Chair  
Mr. Martin Oakes, Vice Chair  
Mr. Carol Mitchem  
Mr. Richard Permenter  
Ms. Anita McCall

For the Petitioners: Mr. Jason White  
Sigmon, Clark, Mackie, Hanvey  
and Ferrell, P.A.  
Post Office Drawer 1470  
Hickory, North Carolina 28603

For the Respondents: Mr. Wesley L. Deaton  
Lincoln County Attorney  
The Deaton Law Firm, P.L.L.C.  
Post Office Box 2459  
Denver, North Carolina 28037

For the Intervenors: Mr. James Scarbrough  
Scarbrough and Scarbrough,  
P.L.L.C.  
137 Union Street South  
Concord, North Carolina 28025

Also Present: Mr. Kelly G. Atkins  
County Attorney  
Ms. Amy Atkins  
Board Secretary  
115 West Main Street  
Lincolnton, North Carolina  
28092

\* \* \* \* \*

1           This is the transcript of the Deliberation  
2 on Remand regarding Conditional Use Permit 327,  
3 being heard by the Lincoln County Board of  
4 Commissioners and in accordance with the North  
5 Carolina Rules of Civil Procedure and the Board of  
6 Commissioners Rules of Procedure before Kimberly S.  
7 Crosby, Certified Verbatim Reporter-Master and  
8 Notary Public, in the Auditorium of the James W.  
9 Warren Citizens Center, 115 West Main Street,  
10 Lincolnton, North Carolina, on the 5th day of June,  
11 2017, beginning at 6:30 P.M.

12  
13                   \* \* \* \* \*

1 MR. BEAM: I call to order the June 5th,  
2 2017, meeting of the Lincoln County  
3 Board of Commissioners. We're  
4 meeting in this auditorium until we  
5 totally complete item number four,  
6 which is the hearing for the Strata  
7 Solar/Dellinger, those deliberations  
8 we make here, and as soon as we're  
9 through with those deliberations and  
10 the item's totally complete, then  
11 we'll move upstairs -- take a short  
12 recess and move upstairs to the  
13 regular commissioners room. We will  
14 have (indecipherable) our Pledge of  
15 Allegiance.

16 (Pledge of Allegiance and Board Business)

17 MR. BEAM: Item number four on the agenda  
18 is the Strata Solar/Dellinger matter,  
19 conditional use permit number 327,  
20 deliberating on remand, Mr. Deaton,  
21 county attorney. At this point, I  
22 turn the meeting over to Mr. Deaton,  
23 our county attorney.

24 MR. DEATON: Good evening, Commissioners.

25 For the benefit of the commissioners

1                   and of the general public, I want to  
2                   give you-all a brief rundown of the  
3                   history of this conditional use  
4                   permit application and then summarize  
5                   what's going to happen tonight and  
6                   we'll get started with deliberations.  
7                   This matter started back in 2013 with  
8                   an application from Strata Solar to  
9                   erect a solar farm on property owned  
10                  by the Dellingers. There were  
11                  initially hearings in September and  
12                  two hearings in December and at that  
13                  time the board ruled against the  
14                  applicant. The decision by the board  
15                  was appealed to the Superior Court  
16                  and the Superior Court on appeal  
17                  found that there was not enough  
18                  evidence and sent it back to the  
19                  Board of Commissioners for two  
20                  issues. The Board of Commissioners  
21                  ruled on those two issues and at that  
22                  time still ruled against the  
23                  applicant and against the Dellingers.  
24                  The Dellingers appealed to the  
25                  Superior Court and the Superior Court

1 affirmed. At that point, the  
2 Dellingers, the landowners, appealed  
3 to the North Carolina Court of  
4 Appeals and at that time it made a  
5 ruling which reversed in part this  
6 board's decision and the Superior  
7 Court's decision and, if this board  
8 will recall, to grant a conditional  
9 use permit, it has to make  
10 essentially four findings: that the  
11 use will not materially endanger the  
12 public health or safety  
13 (indecipherable) proposed and  
14 developed, according to the plan;  
15 that the use meets all the  
16 requirements, conditions, and  
17 specifications; that the use will not  
18 substantially injure the value of  
19 adjoining or abutting property unless  
20 the use is a public necessity; and,  
21 four, the location and character of  
22 the use if developed, according to  
23 the plans submitted and approved,  
24 will be in harmony with the area in  
25 which it's to be located and will be



1 in general conformity with the  
2 approved land development planned for  
3 the area in question. At the  
4 original decision, this board voted  
5 in favor of the applicant and the  
6 Dellingers as to issues one and two  
7 but against them as to issues three  
8 and four. The Court of Appeals ruled  
9 that the Superior Court's decision  
10 also had an effective ruling in favor  
11 of the applicant and the Dellingers  
12 as to issue four, which is general  
13 conformity with the land plan and the  
14 surrounding area. The Court of  
15 Appeals also ruled that the applicant  
16 and the Dellingers had made their  
17 prima facie showing as to issue  
18 three, which is that the use will not  
19 substantially injure the value of  
20 adjoining or abutting property. So  
21 the -- the remand or the Court of  
22 Appeals's order was to bring it back  
23 to this board to see if the opponents  
24 -- to deliberate as to whether the  
25 opponents' evidence, which the

1                   opponents have already put up,  
2                   overcame the prima facie of the  
3                   original case that the applicant and  
4                   the Dellingers had made and that is  
5                   what's at issue for tonight. The  
6                   only other procedural thing I need to  
7                   mention to y'all is it went back to  
8                   the Superior Court. It became public  
9                   record that Strata had withdrawn its  
10                  application, so the opponents filed a  
11                  motion to dismiss essentially for  
12                  mootness, and the Superior Court  
13                  denied that motion and remanded this  
14                  matter back for the board to hear as  
15                  to item three only. Now, why we're  
16                  here tonight is for a very narrow  
17                  issue, item three only, to determine  
18                  whether the opponents, based on the  
19                  evidence that this board has viewed,  
20                  overcame the applicant's evidence and  
21                  the Dellingers' evidence. I would  
22                  like to mention again for the public  
23                  and also the board so much time has  
24                  passed that there's no member's on  
25                  the board sitting today that

1 participated in the hearing back in  
2 2013 and what the Court case has  
3 said, in fact, what the Appeals Court  
4 case says, there's nothing  
5 inappropriate with a commissioner who  
6 did not participate -- who was not a  
7 commissioner earlier to participate  
8 later if they have, in fact, read  
9 themselves in and availed themselves  
10 of all the evidence and -- and read  
11 through it. So what we intend to do  
12 tonight prior to deliberation is a  
13 few preliminary things. I will be  
14 going to the board members and  
15 questioning each board member as to  
16 whether he or she intends to  
17 participate and, if so, I'll also  
18 question whether that board member  
19 has read and listened to all matters  
20 of record and the texts to make sure  
21 they read them like they were  
22 supposed to be. Next I'll ask a  
23 general question that we generally  
24 ask in conditional use permit  
25 quasi-judicial cases. We ask each

1 commissioner to -- as a group, to  
2 disclose any ex parte communications  
3 that they've had about this matter.  
4 Next, prior to any participation by  
5 the board, there are two standing  
6 motions to recuse that have been  
7 filed. One is a long-standing motion  
8 to recuse Commissioner Mitchem and  
9 that will be decided and then there  
10 will be a motion that's been filed  
11 recently to recuse Commissioner  
12 Permenter and the commissioners who  
13 will be deciding that -- each of  
14 those two will be just Commissioners  
15 Beam, McCall, and Oakes. Next, there  
16 has also been filed a few months back  
17 a motion to dismiss this matter as  
18 moot by virtue of Strata Solar --  
19 Strata Solar having withdrawn its  
20 application. If that motion is  
21 denied, then there will be  
22 deliberation on the case in chief.  
23 There won't be testimony. There  
24 won't be discussion by attorneys. If  
25 -- there are two attorneys that

1           basically represent groups here. I  
2           understand they need to protect their  
3           clients' rights, but they will need  
4           to lodge an objection to preserve  
5           that, and that's certainly  
6           appropriate, but otherwise there will  
7           not be general and third-party  
8           discussion, and then there will be  
9           discussion by the board, hopefully a  
10          motion on one side or the other, and  
11          a vote and then a ruling. So with  
12          that, I will get started. I'll just  
13          go down the line. Commissioner  
14          Mitchem, do you intend to participate  
15          tonight?

16       MR. MITCHEM: Yes.

17       MR. DEATON: And have you read the record  
18          of this case?

19       MR. MITCHEM: I've read the record. I  
20          will be the only commissioner that  
21          sat through hours and hours of  
22          testimony in this case that was  
23          brought to us, but I did not  
24          participate at that time, but I will  
25          (indecipherable).

1 MR. DEATON: Okay; okay. Commissioner  
2 Permenter, do you intend to  
3 participate?

4 MR. PERMENTER: Yes, I do.

5 MR. DEATON: And have you read, reviewed,  
6 or listened to all the matters of  
7 record?

8 MR. PERMENTER: Yes, I have. In fact, I  
9 sat through each hearing as it  
10 occurred. I have viewed the complete  
11 video transcribed not less than twice  
12 in its entirety. I've read every  
13 document submitted at least twice in  
14 its entirety plus (indecipherable).

15 MR. DEATON: Okay. Commissioner Beam, do  
16 you intend to participate tonight?

17 MR. BEAM: Yes.

18 MR. DEATON: And have you read, listened  
19 to, or reviewed all the matters of  
20 record?

21 MR. BEAM: Yes. I have gone through the  
22 written. I've listened to the -- and  
23 viewed the -- what I could see from  
24 the video, which is not as good as  
25 the -- actually looking at someone's

1 face when they're live and listening  
2 to their testimony, but I did view  
3 all the videos.

4 MR. DEATON: Okay. Commissioner Oakes, I  
5 think you're next. Do you intend to  
6 participate tonight?

7 MR. OAKES: Yes, I do.

8 MR. DEATON: And, Commissioner Oakes, have  
9 you read, listened to, or reviewed  
10 all the matters of record?

11 MR. OAKES: I reviewed them twice, once  
12 prior to the (indecipherable) and  
13 once again (indecipherable).

14 MR. DEATON: Thank you. Commissioner  
15 McCall, do you intend to participate  
16 tonight?

17 MS. MCCALL: Yes, I do.

18 MR. DEATON: Okay. And have you viewed,  
19 listened to, or reviewed all the  
20 matters of record?

21 MS. MCCALL: Yes, all of them.

22 MR. DEATON: Okay. That knocks out the  
23 first couple of things. So -- so now  
24 this may take a few minutes because  
25 this matter has gone on for quite

1           some time. I think maybe the easiest  
2           way to handle it would be just to go  
3           down the line, start with  
4           Commissioner Mitchem and I'll just  
5           open this question to all  
6           commissioners, to please disclose any  
7           ex parte communications you have had  
8           about this matter either as a  
9           commissioner or prior thereto.

10          MR. SCARBOROUGH: (Indecipherable.)

11          MR. DEATON: Mr. Scarborough, do you want  
12               to lodge an objection?

13          MR. SCARBOROUGH: I do.

14          MR. DEATON: Okay. Then you've lodged it.  
15               So noted. Mr. Permenter.

16          MR. PERMENTER: I want to read a statement  
17               to make sure I get it right. During  
18               the initial application several years  
19               back and the later appeal, perhaps as  
20               recently as two years ago I assisted  
21               in opposing the solar farm. I  
22               contributed financially. I expressed  
23               my opinion to others and had  
24               discussions with both those in favor  
25               and those opposed to the matter. All



1 of these actions took place while I  
2 was a private citizen. As a  
3 candidate, the issue was never raised  
4 to me during the recent general  
5 election campaign. At any public or  
6 private meeting, it was not a topic  
7 discussed. As a County Commissioner,  
8 I've had no discussions on the  
9 substance of the matter before us.  
10 On those few occasions when  
11 individuals have sought to engage me  
12 in conversation or e-mail on the  
13 matter, I responded that I was not  
14 permitted to discuss the matter.  
15 I've been advised regarding my  
16 participation in this matter by both  
17 the legal experts at the University  
18 of North Carolina School of  
19 Government and our County Attorney.  
20 Both informed me that there was no  
21 concern or recusal so long as I could  
22 render an opinion based solely on the  
23 facts and evidence presented. In the  
24 opinion of the University of North  
25 Carolina School of Government, I

1                   should participate and, in fact, have  
2                   an obligation to vote. I can and  
3                   will make a decision based solely on  
4                   the evidence (indecipherable).

5           MR. WHITE: Jason White for the Dellingers  
6                   (indecipherable) with the  
7                   communication with the North Carolina  
8                   School of Government  
9                   (indecipherable).

10          MR. PERMENTER: Okay. I'm sorry. I'm  
11                   going to ask you to repeat that  
12                   'cause I didn't hear.

13          MR. DEATON: I -- what -- what Mr. White  
14                   asked is that any communication with  
15                   the School of Government be added to  
16                   the record, which if there are e-mail  
17                   communications, that would not be  
18                   inappropriate.

19          MR. PERMENTER: They were not. They were  
20                   verbal. I'll give you the name of  
21                   the person -- two people I spoke to  
22                   (indecipherable). Is that  
23                   appropriate?

24          MR. DEATON: That will be fine. All  
25                   right. Mr. Beam?

1 MR. BEAM: Yes. I became a commissioner  
2 in 2014, which was well after the  
3 first hearing. I've had numerous  
4 conversations, heard numerous  
5 conversations that discussed the  
6 solar farm, the Dellinger property,  
7 Sailview, and that section of east  
8 Lincoln County about the question of  
9 the solar farm versus the -- the  
10 resident -- residents. Luckily none  
11 of it concerned evidence that --  
12 which is the only thing I can go by  
13 for this very narrow decision that we  
14 have to make tonight, is going to be  
15 about the evidence in the case and  
16 what we heard from the tapes and so  
17 forth that we viewed, but as far as  
18 having discussion with other people  
19 or hearing about it and reading about  
20 it in newspapers, online or wherever,  
21 I have absolutely (indecipherable).  
22 I believe I can be fair and listen to  
23 the evidence and I will look at only  
24 the evidence that I saw on the tapes.

25 MR. DEATON: Commissioner Oakes?

1 MR. OAKES: Since becoming a commissioner,  
2 I had discussions after the first  
3 hearing in which I participated. I  
4 talked to people on both sides after  
5 we had decided the case up until the  
6 point at which the Court of Appeals  
7 ruled that I realized the case was  
8 coming back, at which time I stopped  
9 having discussions with anybody on  
10 either side.

11 MR. DEATON: Mr. Oakes, do you believe you  
12 can review the evidence and make a  
13 decision based on the evidence and  
14 the law?

15 MR. OAKES: Yes. I (indecipherable).

16 MR. DEATON: Commissioner McCall?

17 MS. MCCALL: As a private citizen when I  
18 was campaigning, I was asked by many  
19 people how would I vote if I could  
20 vote my feeling. At that time, I  
21 gave my opinion. However, this is a  
22 quasi-judicial matter, which is a  
23 court case, and I have had formal  
24 quasi-judicial training. I can be  
25 fair and only use the testimony and

1 the records that I have viewed. I  
2 watched the videotapes and I can make  
3 a decision based upon just that and  
4 ignore my feelings. There's been no  
5 discussion, once I knew the Strata  
6 case was coming back, with myself and  
7 anyone else.

8 MR. DEATON: Okay. Thank you,  
9 Commissioners. We now have two  
10 motions to recuse. We'll take them  
11 in the order they were presented.  
12 First is (indecipherable) the  
13 opponents of the application to  
14 recuse Commissioner Mitchem. That's  
15 a matter of record. All of you had a  
16 chance to review that. Because  
17 Commissioner Permenter is  
18 (indecipherable) he's -- his motion  
19 to recuse is voted on, the only three  
20 participating commissioners will be  
21 Commissioners Beam, McCall, and  
22 Oakes. It is now -- the first motion  
23 to decide is Commissioner Mitchem's  
24 and it's your choice to either make a  
25 motion to recuse him or not to recuse

1 him and deny the opponents' motion,  
2 but before you make any decision, let  
3 me just read the applicable law, and  
4 this comes from NCGS 160A-388,  
5 subsection (e) (2). "A member of any  
6 board exercising quasi-judicial  
7 functions pursuant to this Article  
8 shall not participate in or vote on  
9 any quasi-judicial matter in a manner  
10 that would violate affected persons'  
11 constitutional rights to an impartial  
12 decision-maker. Imper- --  
13 impermissible violations of due  
14 process include, but are not limited  
15 to, a member having a fixed opinion  
16 prior to hearing the matter that is  
17 not susceptible to change,  
18 undisclosed ex parte communications,  
19 a close familial, business, or other  
20 associational relationship with an  
21 affected person, or a financial  
22 interest in the outcome of the  
23 matter. If an objection is raised to  
24 a member's participation and that  
25 member does not recuse himself or

1                   herself, the remaining members shall,  
2                   by a majority vote, rule on the  
3                   objection." So now is the time for  
4                   the three remaining commissioners to  
5                   rule on the motion to recuse  
6                   Commissioner Mitchem.

7           MR. MITCHEM: Before you do that, do  
8                   either of us have an opportunity to  
9                   comment? Is that appropriate?

10          MR. DEATON: That -- that is appropriate.  
11                   I'm glad you asked it. Actually,  
12                   when it's time for your motion, you  
13                   have the right to comment or state  
14                   why you think your -- you shouldn't  
15                   be recused (indecipherable)  
16                   participate in that decision  
17                   (indecipherable) Commissioner  
18                   Mitchem. Commissioner Mitchem, do  
19                   you want to say anything? Or if any  
20                   other board members want to discuss  
21                   the deliberation, now would be the  
22                   time.

23          MR. MITCHEM: It's on me?

24          MR. DEATON: Yes, sir.

25          MR. MITCHEM: (Indecipherable) you read

1                   there (indecipherable) I have nothing  
2                   to recuse myself from. I have not  
3                   participated in any (indecipherable)  
4                   Strata Solar, so therefore I don't  
5                   see any reason that I need to be  
6                   recused from voting on this matter.

7                   MR. BEAM: Okay. Members of the board, we  
8                   need a motion --

9                   MS. MCCALL: Well, wait. I have a  
10                  question. Commissioner Mitchem?

11                 MR. MITCHEM: Yes.

12                 MS. MCCALL: Could you please tell me why  
13                  you chose to recuse yourself  
14                  initially?

15                 MR. MITCHEM: The reason --

16                 (Audience applause)

17                 MR. MITCHEM: Thank you. The reason  
18                  initially was advisement from the  
19                  county attorney to do that. At that  
20                  point in time, I had had a solar farm  
21                  approved by Strata, so the attorney,  
22                  Mr. Deaton, advised me it might be  
23                  best that I recuse myself from  
24                  voting, and that's what I did, but  
25                  since then, I have had no talks with



1 in no way, shape, or form with Strata  
2 Solar. I did not -- Strata do not  
3 build a solar farm on my farm.

4 (Indecipherable) and they pulled the  
5 rug out from under me and that's what  
6 happened, so other than that, that  
7 was the reason that I was advised to  
8 recuse myself and the reason that I  
9 did, but since then there's been no  
10 communications I've had with Strata  
11 Solar farm in any way, shape, or  
12 form, so therefore that gives me the  
13 right to vote on this matter.

14 MS. MCCALL: Thank you.

15 MR. BEAM: Members of the board, I'll now  
16 entertain a motion.

17 MR. OAKES: I move that Commissioner  
18 Mitchem not be recused.

19 MR. BEAM: I have a mission -- a motion  
20 from Commissioner Oakes that  
21 Commissioner Mitchem not be recused;  
22 is that correct?

23 MR. OAKES: Yes.

24 MR. BEAM: Any further discussion?

25 Hearing none, all in favor do so by

1 saying aye. Aye.

2 MR. OAKES: Aye.

3 MS. MCCALL: Aye.

4 MR. BEAM: All opposed? Motion carries  
5 three to nothing.

6 MR. DEATON: All right. Now it's time for  
7 the same three board members to  
8 deliberate on the Dellingers' motion  
9 to recuse Commissioner Permenter.  
10 That matter is also (indecipherable)  
11 and the board has had an opportunity  
12 to review that motion and the  
13 allegations made therein.  
14 Commissioner Permenter has the right  
15 to address that and, just as with  
16 Commissioner Mitchem, the board has  
17 the right to pose questions to  
18 Commissioner Permenter.

19 MR. PERMENTER: Shortly after taking the  
20 oath of office as a county  
21 commissioner, I attended training at  
22 the University of North Carolina  
23 School of Government. I brought full  
24 details of my involvement in the  
25 matter to their associate professor,

1           -- I believe Kara (indecipherable) is  
2           the name -- explained to her in great  
3           detail what was going on, and I was  
4           told that to be recused I had to  
5           either have some sort of a -- had to  
6           have a finan- -- financial conflict  
7           of interest, which was explained in  
8           great detail. I had none, have none.  
9           The other was if I believed that I  
10          could view the evidence with an open  
11          mind and make a finding, a  
12          determination based on the evidence  
13          or the weight of the evidence. I  
14          responded that I could. I had the  
15          same conversation with the county  
16          attorney. Dr. -- Dr.  
17          (indecipherable) at the School of  
18          Government told me that I, in fact,  
19          had an obligation to vote. There was  
20          no basis for me to even consider  
21          recusing myself (indecipherable). In  
22          my professional career, I sat on and  
23          chaired, participated in boards,  
24          selecting people for promotion,  
25          selecting people for disciplinary

1 action, ruling on who would not get  
2 promoted and who would receive  
3 disciplinary action. I sat as the  
4 chair and participated in solar  
5 source and large-scale government  
6 contracts and both -- all of those  
7 instances involved people I knew and,  
8 in fact, certainly involved people  
9 with whom I was friendly. Based  
10 solely on the facts, I ended the  
11 career with friends. I lost friends.  
12 I promoted people I didn't like. I  
13 believe -- I believe I absolutely can  
14 make a decision based on the evidence  
15 and I do not have nor do I approach  
16 this with a closed mind.

17 MR. BEAM: Okay. Can I have a motion to  
18 recuse Commissioner Permenter?

19 MR. OAKES: I move that Commissioner  
20 Permenter not be recused.

21 MR. BEAM: I have a motion from  
22 Commissioner Oakes Commissioner  
23 Permenter not be recused. Any  
24 further discussion? Hearing none,  
25 all in favor do so by saying aye.

1                   Aye.

2           MR. OAKES:   Aye.

3           MS. MCCALL:   Aye.

4           MR. BEAM:   All opposed?   Motion carries  
5                   unanimously.

6           MR. DEATON:   All right.   Thank you,  
7                   Commissioners.   The next matter for  
8                   deliberation before ruling on the  
9                   case in chief is the ruling on the  
10                  motion to dismiss by the opponents.  
11                 I had previously advised this board.  
12                 The board has the right to rule  
13                 however it wishes on this motion to  
14                 dismiss.   My opinion is based on the  
15                 decision of the Court of Appeals and  
16                 based upon the order of the Superior  
17                 Court remanding the case back to us,  
18                 the Superior Court, of course, being  
19                 a higher court than us.   That matter  
20                 is in their hands and not your hands.  
21                 I would advise the board therefore to  
22                 deny the motion to dismiss.   I  
23                 (indecipherable) I sent to this board  
24                 draft orders for doing so.   I'd like  
25                 to pass these down actually.   That

1                   was the way -- if the board wanted to  
2                   rule, that proposed ruling would be  
3                   the template that I presented for  
4                   that purpose.

5           MR. OAKES: Mr. Deaton, did not the  
6                   Superior Court rule on the issue of  
7                   mootness?

8           MR. DEATON: Yes, and that's -- that's --  
9                   in large part, that's me advising  
10                  this board that that's really not  
11                  something this board should take up.  
12                  I mean, it should -- it should  
13                  address the issue a motion's been  
14                  filed, but it's my opinion that would  
15                  be an attempt to overrule the  
16                  decision of the Superior Court.

17          MR. OAKES: So are we ruling on mootness  
18                  or just a general motion to dismiss?

19          MR. DEATON: The basis for the opponents'  
20                  motion to dismiss was mootness,  
21                  Commissioner Oakes, but technically  
22                  narrowly what you're ruling on is  
23                  their motion to dismiss.

24          MR. MITCHEM: So when this is said and  
25                  done, the final outcome is what

1 (indecipherable)?

2 MR. DEATON: If -- if the board grants the  
3 opponents' motion to dismiss, this  
4 case ends now until someone appeals  
5 it. There would be no deliberation  
6 tonight. If the board denies the  
7 opponents' motion to dismiss, then  
8 the next step is for the board  
9 members to deliberate this matter.

10 MR. PERMENTER: And if we grant the motion  
11 to dismiss, it will likely work its  
12 way back up to the same Court that  
13 has already ruled?

14 MR. DEATON: I would expect so.

15 MR. BEAM: (Indecipherable) I understand  
16 that the higher Court has already  
17 made a decision. (Indecipherable)  
18 already decided that the issue was  
19 not moot and I was extremely  
20 surprised that that occurred. What  
21 repercussions?

22 MR. DEATON: If this board ruled that --  
23 or granted a motion to dismiss and  
24 then a higher Court overruled this  
25 board, we would come back here and

1                   deliberate this matter. If this  
2                   board denied the motion to dismiss  
3                   and deliberates this matter, if a  
4                   higher Court wants to rule to  
5                   dismiss, fine. It can do so, but  
6                   it's not going to have to come back  
7                   here.

8           MR. MITCHEM: So you're -- you're -- what  
9                   you're saying is to deny to dismiss?

10          MR. DEATON: I'm advising the board that  
11                   it should deny based on the ruling of  
12                   the higher Court.

13          MR. MITCHEM: And this will mean?

14          MR. DEATON: We'll continue on with the  
15                   deliberation.

16          MR. MITCHEM: Tonight?

17          MR. DEATON: Tonight.

18          MR. MITCHEM: And then will we be done?

19          MR. DEATON: It's up to the parties and  
20                   what they decide to do.

21          MR. MITCHEM: The parties?

22          MR. BEAM: We all know that it has been  
23                   and can be appealed.

24          MR. MITCHEM: So how many -- how many  
25                   times has this come back to us, four?



1 MR. DEATON: I think this is the fourth,  
2 the original and three.

3 MR. MITCHEM: So this will be the fourth  
4 time?

5 MR. DEATON: Yes.

6 MR. MITCHEM: Why, in your professional  
7 opinion as an attorney, do you think  
8 the Court keeps sending this back to  
9 us?

10 MR. DEATON: Well, the Courts have given  
11 different reasons. The first time,  
12 the Superior Court said that there  
13 wasn't sufficient evidence. The next  
14 time, the Court of Appeals said we  
15 used the wrong standard in judging  
16 the applicant and landowners in the  
17 case.

18 MR. MITCHEM: And the third time?

19 MR. DEATON: I'm sorry. That -- that was  
20 the fourth time; yeah.

21 MR. MITCHEM: And the fourth time? Is  
22 that the fourth time?

23 MR. DEATON: The second time -- it came  
24 back a second time because the  
25 Superior Court said there wasn't

1                   sufficient evidence.

2                   UNIDENTIFIED SPEAKER: The Superior Court  
3                   did not say that.

4                   MR. DEATON: And I'm sorry. I'm losing my  
5                   place here.

6                   MR. MITCHEM: Okay. I believe we  
7                   understand what the -- but it has  
8                   been sent back to us four times?

9                   MR. DEATON: Yes. This is the fourth  
10                  time.

11                  MR. MITCHEM: (Indecipherable) make some  
12                  kind of decision (indecipherable).

13                  MR. DEATON: That is the third finding  
14                  that has to be made for a conditional  
15                  use permit, which is the use will not  
16                  substantially injure the value of  
17                  adjoining or abutting property unless  
18                  the use is a public necessity, and I  
19                  believe it's fair to say nobody has  
20                  argued from the start that it's a  
21                  public necessity, so really the  
22                  board's (indecipherable) whether the  
23                  use will substantially or not  
24                  substantially injure the value of  
25                  adjoining or abutting property.

1 MS. MCCALL: And the Court has already  
2 ruled, telling us that it does not --  
3 there hasn't been substantial proof;  
4 is that correct?

5 UNIDENTIFIED SPEAKERS: No.

6 MR. DEATON: What the board -- excuse me.  
7 What the Court of Appeals ruled was  
8 that the burden was initially on the  
9 applicant (indecipherable), the  
10 Dellingers and Strata, and that they  
11 carried that burden when they made  
12 their prima facie case and to use an  
13 example, if they'd gone into an empty  
14 room with no opponents, they should  
15 prevail because they carried their  
16 case. It's back to this board to  
17 determine if the opponents of that  
18 application have made a sufficient --  
19 a showing sufficient to overcome the  
20 Dellingers' showing. So in other  
21 words, have the opponents provided  
22 sufficient information and testimony  
23 and evidence that the proposed use  
24 would substantially injure the value  
25 of adjoining or abutting property.

1 MR. MITCHEM: So with that said, you're  
2 saying the Dellingers included it,  
3 but the other did not? The opponents  
4 did not do that; is that true?

5 MR. DEATON: They're saying that the --  
6 that -- that the Dellingers -- excuse  
7 me -- if the Dellingers have made  
8 their prima facie showing, and it's  
9 back to y'all to decide whether the  
10 opponents have made a showing that  
11 overcomes what the Dellingers have  
12 proved.

13 MR. PERMENTER: But -- but at this point,  
14 we're deciding whether or not to deny  
15 or approve the motion to dismiss as  
16 opposed to we have evidence and a  
17 motion to dismiss just based on what?

18 MR. DEATON: The motion to dismiss based  
19 on mootness. That's the stage we're  
20 at right now.

21 MR. MITCHEM: So that's -- that's what  
22 we're deliberating right this very  
23 second?

24 MR. BEAM: Right now, the next question we  
25 need to go to is to make a decision

1           on -- on the mootness of the case,  
2           whether we approve to dismiss the  
3           case or are we following our  
4           attorney's advice or whatever the  
5           higher Court has already ruled and  
6           make a decision on the case.

7           (Indecipherable) decision on that.

8           Do we have any kind of motion?

9           MR. PERMENTER: I move to dismiss the  
10          motion to -- the motion to dismiss  
11          based on the advice of our attorney.

12          MR. BEAM: I have a motion from  
13          Commissioner Permenter. His motion  
14          is to deny the -- to deny dismissing  
15          the case. Any further discussion?

16          MR. MITCHEM: (Indecipherable) attorney  
17          explain that, make sure everybody  
18          understands (indecipherable).

19          MR. DEATON: The opponents have stated  
20          they believe the case should be  
21          dismissed because they believe it's  
22          moot and they believe it's moot  
23          because the applicant -- it's on  
24          record -- has withdrawn its  
25          application. A motion to dismiss

1                   would end it, at least for now, until  
2                   someone appeals it. Commissioner  
3                   Permenter's motion is to deny that,  
4                   which means that if granted, then we  
5                   would go on and deliberate the case  
6                   here in a few minutes.

7                   MR. BEAM: Any further -- and your  
8                   recommendation is?

9                   MR. DEATON: My recommendation is exactly  
10                  what Mr. Permenter has done, which is  
11                  to deny the motion.

12                 MR. BEAM: And let us discuss it here?

13                 MR. DEATON: Yes.

14                 MR. BEAM: And come to some decision?

15                 MR. DEATON: That is correct.

16                 MR. BEAM: Any further discussion?

17                         Hearing none, all in favor of  
18                         Commissioner Permenter's motion, do  
19                         so by saying aye. Aye.

20                 MR. PERMENTER: Aye.

21                 MR. MITCHEM: Aye.

22                 MR. OAKES: Aye.

23                 MS. MCCALL: Aye.

24                 MR. BEAM: All opposed? Motion carries  
25                         unanimously, so the case will

1                   continue. All right. Now it's time  
2                   for the -- the board to make a  
3                   decision on the application itself.  
4                   Now is the proper time for us to  
5                   discuss the matter prior to making a  
6                   motion or if you make a motion, then  
7                   we'll discuss that as part of the  
8                   motion process. It is your choice.  
9                   In the paperwork, our attorney has  
10                  advised us about some of the  
11                  (indecipherable) that I saw in the  
12                  paperwork from some of the attorneys,  
13                  but, of course, their conclusions  
14                  were not the conclusions of the  
15                  judges but the conclusions of the  
16                  attorneys.

17               MR. DEATON: And just to go along with  
18                  that, I had requested from each  
19                  attorney a (indecipherable), which is  
20                  filed with the court case. They  
21                  prepared essentially competing  
22                  orders, Mr. White for the Dellingers,  
23                  Mr. Scarborough for the opponents,  
24                  and each proposed an order that -- an  
25                  order that was kind of generic.

1 (Indecipherable) we had a motion that  
2 (indecipherable). Each of them had  
3 very lengthy findings of fact that  
4 they believed arrived from the  
5 evidence in support of their  
6 particular position. As I advised  
7 the board, the board is free to adopt  
8 one whole (indecipherable) or just a  
9 part or to adopt neither, but it  
10 provides you with a guideline and  
11 provides a basic structure to go by.

12 MR. OAKES: I have a motion to find for  
13 the opponents and I basically took  
14 their recommended findings and made  
15 numerous changes and incorporated  
16 some of the things from the other  
17 side (indecipherable) and we can go  
18 through them one at a time.

19 MR. DEATON: Mr. Oakes, I think  
20 (indecipherable). If you want to  
21 make a motion with the proposed  
22 findings, you probably want to speak  
23 up just a little bit and go through  
24 them one at a time. I know it's kind  
25 of long, but that's -- that's what we



1                   need to do for this.

2           MR. OAKES: All right. I'd like to make a  
3                   motion to find in favor of the  
4                   opponents and the county attorney has  
5                   asked me basically to read the whole  
6                   thing, so I will. Number one, the  
7                   use is not a public necessity.  
8                   Number two, -- it's mostly from Mr.  
9                   Dellinger's part -- the applicant's  
10                  appraiser submitted a neighborhood in  
11                  Wayne County near a solar farm as a  
12                  primary exhibit. This evidence  
13                  presented compared two property sales  
14                  prior to the solar farm being  
15                  installed with three properties sold  
16                  after the solar farm was built.  
17                  You'll find this in the previous  
18                  exhibit for Kirkland on page six.  
19                  However, one of the earlier  
20                  properties was submitted without a  
21                  type. It wasn't listed split, ranch,  
22                  etc. or a square footage, making its  
23                  use as a matched pair valueless, and  
24                  so only the single prior sale can be  
25                  compared with the three post-sales.

1                   Nevertheless, this evidence is  
2                   sufficient by itself to prove that  
3                   the applicant met his burden of  
4                   proof. Now turning to the Sailview  
5                   side of the case, the Clay County  
6                   Board of Equalization and Review in  
7                   Clay County, North Carolina, reduced  
8                   by about thirty percent the value of  
9                   nineteen residential property values  
10                  as a result of a solar farm being  
11                  constructed nearby, which we believe  
12                  is significant and is a type of  
13                  injury that would be incurred by  
14                  adjacent, adjoining, and abutting  
15                  properties if the proposed solar farm  
16                  is approved and constructed. This  
17                  data was taken from the appraiser,  
18                  Mr. Beck's, submittal on page nine.  
19                  Next, Mr. and Mrs. McLean own a house  
20                  at 4301 Burton Lane, Denver, which  
21                  abuts the proposed solar farm. They  
22                  listed the home for sale. Three  
23                  people looked at it. They entered  
24                  into a contract with Mr. and Mrs.  
25                  Hebbins -- Hibbens to sell the

1 contract -- sell the house for  
2 \$200,000 with a closing scheduled for  
3 August 23rd, 2013. About four or  
4 five days prior to the closing, the  
5 rezoning signs were first seen by the  
6 Hibbens, who called the county and  
7 asked. The Hibbens and the McLeans  
8 then learned about the solar farm and  
9 the McLeans and the Hibbens extended  
10 the due diligence but then canceled  
11 the closing shortly before the due  
12 date. That contract was terminated  
13 on October 22nd, 2013. Both the  
14 McLeans and the McLeans' realtor and  
15 Mr. Beck, the appraiser, talked to  
16 Mr. Hibbens and he confirmed that the  
17 reason for sell -- for canceling the  
18 purchase was the solar farm. The  
19 proposed solar farm thereby caused  
20 the McLeans to lose the sale and they  
21 had no other people look at it  
22 (indecipherable). The proposed use  
23 of the solar farm is on  
24 thirty-six acres of land on both  
25 sides of Webbs Road. The site is

1                   currently used for agricultural  
2                   purposes. The main entrance to the  
3                   Sailview subdivision on Lake -- Lake  
4                   Norman is at the intersection of  
5                   Webbs Road and Burton Road adjacent  
6                   to the proposed site. The appraisers  
7                   hired by the applicant and the  
8                   appraisers hired by the opponents all  
9                   acknowledged that the proposed solar  
10                  farm is unique in that there are no  
11                  other known solar farms where  
12                  residents would be required to drive  
13                  directly through the middle of one  
14                  with equipment and fencing on both  
15                  sides of the road. Mr. Beck  
16                  concluded in his analysis that,  
17                  "Overall, based on the evidence, it  
18                  appears the proposed Webbs Road solar  
19                  farm will have a significant negative  
20                  impact on homes in the Sailview  
21                  subdivision, as well as other nearby  
22                  subdivisions." You'll find this  
23                  comment on page eleven of his  
24                  appraisal. The Sailview subdivision  
25                  has slightly over four hundred homes

1 with values ranging from \$400,000 to  
2 over \$2,000,000. There is no other  
3 access to the Sailview subdivision  
4 that does not pass by the proposed  
5 solar farm. The site is currently  
6 zoned residential single-family,  
7 which allows for predominantly  
8 single-family residential development  
9 by right and some other intensive use  
10 -- uses by conditions. The proposed  
11 site will be for 26,000 solar panels,  
12 eight feet in height, creating about  
13 five megawatts of electricity to be  
14 sold to Duke Power. The median  
15 housing value within a one-mile  
16 radius of the site is about \$451,000.  
17 The applicant's expert cited two  
18 examples of solar farms next to  
19 residential areas, but in one  
20 example, the solar farm existed  
21 before the houses were built, and I  
22 believe that's the one we cited in  
23 Cary, and there's no other evidence  
24 of comparative values before and  
25 after or where the solar farm was

(indecipherable), and the other example is the pre-mentioned Wayne County site where the houses were next to the solar farm, but in the price range of 220,000 to 240,000, in contrast to the nearby residential values where the average is about \$460,000. Based on the foregoing, the board concludes that both the applicant and the opponents presented competent, material, and substantial evidence, but the contra-evidence presented by the opponents outweighed and overcame the evidence presented by the applicant, and, two, the use will substantially injure the value of adjoining or abutting property. The application is denied.

MR. DEATON: Okay. We've got a motion from Commissioner Oakes to deny the application for the reasons he stated in his -- in his paragraph motion. Commissioner Oakes, you read verbatim from that document, did you not?

MR. OAKES: Yes, and the county clerk has

1 a copy.

2 MR. DEATON: Okay. Thank you.

3 MR. BEAM: We have a motion from

4 Commissioner Oakes.

5 MR. MITCHEM: Discussion?

6 MR. BEAM: I'm sorry?

7 MR. MITCHEM: Are we going to have

8 discussion?

9 MR. BEAM: Yes; we're going to have

10 discussion.

11 MR. MITCHEM: Is that not the same

12 evidence that the Courts have seen,

13 that Commissioner Oakes read, that

14 they made (indecipherable) and sent

15 back to us? Any difference in what

16 he's read from what the Courts have

17 already said?

18 MR. DEATON: The Courts have had access to

19 the same record that Commissioner

20 Oakes had and they used the same

21 facts, so Mr. Oakes is attempting to

22 go by the Court's mandate and address

23 the specific and narrow issue of

24 whether the opponents had substantial

25 -- sufficient substantial evidence of

1                   injury to overcome the applicant's  
2                   evidence where they made their prima  
3                   facie case.

4           MR. MITCHEM: But it does not show any new  
5                   evidence?

6           MR. DEATON: No new evidence, no.

7           MR. MITCHEM: It's the same old song and  
8                   dance --

9           MR. DEATON: That's correct.

10          MR. MITCHEM: -- that all the Courts are  
11                   saying, that they ruled on?

12          MR. DEATON: That's correct.

13          MS. MCCALL: We're ruling, Mr. Deaton, on  
14                   that evidence specifically?

15          UNIDENTIFIED SPEAKER: Would you say that  
16                   again, please?

17          MS. MCCALL: I'm asking Mr. Deaton we're  
18                   ruling on that evidence specifically?

19          MR. DEATON: They have the same evidence  
20                   that you have and they stopped at the  
21                   issue of the applicant making its  
22                   prima facie case. They didn't  
23                   express an opinion as to whether the  
24                   opponents were able to overcome them.  
25                   They said an improper burden was



1 placed on the applicant by the board  
2 and they sent it back to this board  
3 to -- to review the evidence  
4 submitted in favor of the opponents  
5 in opposition to the application for  
6 this board to make a ruling on  
7 whether the opponents' evidence  
8 overcame the applicant's evidence.

9 MR. OAKES: If I'm correct, the Court of  
10 Appeals specifically said the one  
11 (indecipherable), which is beyond a  
12 shadow of a doubt, and the Court of  
13 Appeals took exception to that and  
14 that's one of the reasons it's back  
15 here?

16 MR. DEATON: That was -- I think he said  
17 beyond a reasonable doubt, but that  
18 was (indecipherable).

19 MR. BEAM: For a criminal court case to be  
20 beyond a reasonable -- a reasonable  
21 doubt. This is -- this is a  
22 preponderance of the evidence and  
23 preponderance of the evidence is  
24 anything that tips the scales in  
25 favor, no matter how slightly, in one

1 direction or the other. Is that  
2 correct?

3 MR. DEATON: That's correct.

4 MS. MCCALL: Thank you, Mr. Deaton.

5 MR. BEAM: In my deliberation or my --  
6 when I was listening to the -- I  
7 listed to a lot of conjecture, people  
8 talking about at the time that this  
9 was going on (indecipherable) and  
10 there was a lot of people that talked  
11 about the values of the homes, what  
12 they may be, what they may not be,  
13 but to me it was very important they  
14 had an opinion. The only fact that I  
15 took away from viewing the film was a  
16 home that was for sale and the home  
17 was not sold and it was not sold  
18 because the people said that they  
19 didn't know there was going to be a  
20 solar farm there, so they -- they  
21 backed out of the contract, and that  
22 was -- that was a fact. That was a  
23 home sale that did not take place and  
24 that was, to me, the weight of the  
25 evidence that I heard from the --

1 from the videotapes that I watched  
2 and the information I saw. Many  
3 questions were asked about -- talking  
4 about (indecipherable) over in  
5 another county and the homes there  
6 and the values of those homes and so  
7 forth and a lot of conjecture about  
8 values and homes and what a solar  
9 farm would or would not do, but as  
10 far as the actual evidence is  
11 concerned, what I saw was the sale of  
12 the home that did not take place.

13 MR. MITCHEM: I think Mr. Chairman  
14 (indecipherable).

15 (Indecipherable)

16 MR. BEAM: We're not supposed to take in  
17 any additional evidence. We're not  
18 supposed to receive anything from the  
19 outside.

20 MR. MITCHEM: I'll ask you, then. How  
21 many solar farms have been approved  
22 in Lincoln County?

23 MR. BEAM: I don't know, two, three. I  
24 don't know.

25 MR. MITCHEM: Be four. How many have been

1                   denied?

2           MR. BEAM:  None, as far as I'm aware of.

3           MR. MITCHEM:  There's been one denied.

4                   The next question is -- yes, it has,

5                   so far been denied (indecipherable).

6                   Every time on the board -- the

7                   planning board voted on solar farms,

8                   they never took into consideration

9                   devalued property.  Devalued property

10                  -- whether it's a \$50,000 house or a

11                  million-dollar house, devalued

12                  property (indecipherable), the State

13                  can determine a basic finding of fact

14                  that devalues the property.  Just

15                  because the property (indecipherable)

16                  anybody can make that decision.

17   (Indecipherable)

18           MR. BEAM:  All we -- all we -- all we can

19                  take is the evidence that we saw

20                  (indecipherable).

21   (Indecipherable)

22           MR. BEAM:  We have to take evidence from

23                  what we saw that was presented in

24                  this place at that time.

25           MR. OAKES:  (Indecipherable.)

1 MR. PERMENTER: If I could comment on that  
2 issue, Mr. Mitchem?

3 MR. MITCHEM: Yes, please do.

4 MR. PERMENTER: Two of those solar farms I  
5 think you're talking about were  
6 approved since this case was decided  
7 and therefore we can't even consider  
8 those. I personally voted for those  
9 two farms. In both cases, the  
10 applicant presented evidence of not  
11 impacting the local values and the  
12 opponents, such as they were, really  
13 didn't put up any fight on that  
14 topic, and so we had a case like we  
15 have today where the opponent had no  
16 evidence. In those cases, the  
17 opponents had no evidence, but in  
18 this case you have the opponents who  
19 do have evidence, and that's the  
20 difference. We have to take the case  
21 that's presented, all the evidence in  
22 front of us and not on anything else.

23 MR. MITCHEM: (Indecipherable.)

24 (Indecipherable)

25 MR. PERMENTER: I have a condensed version

1 of what I saw as the evidence, but  
2 it's still going to take a couple of  
3 minutes to through and I'm going to  
4 ad lib, so before I try and vote, I'm  
5 (indecipherable) the evidence I  
6 considered to be (indecipherable).

7 MR. BEAM: I think it's -- I think it's  
8 important for all of us to say how we  
9 -- the evidence we saw and what we  
10 feel like is pertinent in this case.

11 MR. PERMENTER: I don't want to take  
12 (indecipherable). Commissioner  
13 McCall?

14 MS. MCCALL: Yes. We -- we have a  
15 precedent set, is the way I look at  
16 it, due to the evidence that  
17 Commissioner Oakes read on the  
18 original discovery of the property  
19 values that were reassigned and were  
20 lowered, based on the facts, and we  
21 need to take that into account. Once  
22 again, Commissioner Oakes, where was  
23 the location for that?

24 MR. OAKES: That was Clay County where the  
25 Board of Equalization and Review

1                   reduced nineteen properties by  
2                   thirty percent.

3           MS. MCCALL:   Clay County?

4           MR. OAKES:    Yes.

5           MS. MCCALL:   Thirty percent reduction, and  
6                   we can take that into account.

7           MR. OAKES:    It was entered into evidence.

8           MS. MCCALL:   Correct.

9           MR. PERMENTER:  You ready?  I'm going to  
10                   go through the evidence that I  
11                   condensed, sixty pages of legal  
12                   document -- legal notes.  I want to  
13                   start with evidence submitted by  
14                   realtors.  Both parties submitted  
15                   testimony from realtors, so I have to  
16                   assume it's acceptable.  The Strata  
17                   Solar folks presented opinions of  
18                   realtors -- you'll find those on page  
19                   twelve of their report -- to support  
20                   no impact of a solar farm and  
21                   included a guess and an opinion of  
22                   the owners and developers who wanted  
23                   to expand the development and might  
24                   include a small solar farm, thinking  
25                   it could be a marketing tool.  Mr.

1 Kirkland also stated in a couple of  
2 his examples the developer and/or  
3 owner also owned the land being  
4 considered for a solar farm so that  
5 person could have fixed the sale  
6 price. There were folks who saw no  
7 problems with the possibility of the  
8 solar farm next to their proposed  
9 residential development where they  
10 are located. Mr. Beck, who was  
11 equally certified and was  
12 representing the people opposed to  
13 the solar farm, provided opinions  
14 from realtors that were certainly  
15 more detailed and included two that  
16 were locally recognized and received  
17 awards as experts and have detailed  
18 local knowledge. (Indecipherable)  
19 local knowledge just as with safe  
20 navigation. It seems like that might  
21 apply here, as well. I guess that's  
22 why both sides accepted realtors.  
23 While all local realtors believed the  
24 impact would be or likely be  
25 negative, the two that were most



1 recognized stated unequivocally the  
2 overall impact of this particular  
3 solar farm would be negative to the  
4 surrounding area. "Devastating" was  
5 the word that was used with one  
6 estimate of up to thirty percent  
7 reduction in property values. I then  
8 considered evidence on the number of  
9 sites that were examined and the  
10 surrounding area uses. Mr. Kirkland,  
11 who was representing Strata Solar,  
12 included in his report that, quote,  
13 "A solar farm is a complete" --  
14 excuse me -- "is a compatible use for  
15 a rural/residential area." Strictly  
16 agricultural uses, including  
17 agricultural/residential uses, make  
18 up the majority of those adjoining  
19 uses. Mr. Kirkland included  
20 seventeen existing or proposed solar  
21 farms in his report, showing all were  
22 in areas either industrial,  
23 commercial, or a combination of  
24 residential and agriculture. In not  
25 one -- in not one example presented

1           did the residential category alone  
2           account for the majority of the  
3           parcels. Residential only was  
4           significant when it was coupled with  
5           agriculture. Mr -- Mr. Kirkland used  
6           only matched pairs and provided no  
7           material or testimony of statistical  
8           significance either directly or by  
9           comparison and, in fact, both experts  
10          -- experts on both sides used matched  
11          pairs. Mr. Kirkland, in testimony  
12          when he was challenged, said the  
13          price didn't matter, but he provided  
14          no evidence to support that in other  
15          testimony or a written report. The  
16          properties included by Mr. Kirkland  
17          in his testimony and report were not  
18          at all comparable in value to those  
19          in the Denver area. The -- Mr.  
20          Kirkland and Mr. Beck did reports on  
21          opposite sides of the issue. In  
22          their reports and testimony, they  
23          both agreed that adjacent or nearby  
24          solar farms probably have no impact  
25          on residential property values where

1           those values are approximately  
2           \$250,000 and less in North Carolina.  
3           Mr. Beck's report provided details in  
4           tables and graphs showing as many as  
5           forty-two locations in North Carolina  
6           for solar farms with types of land  
7           use, number of residences nearby,  
8           median and average home values within  
9           a mile, the number of homes within a  
10          mile. All showed a strong positive  
11          correlation between lower home prices  
12          and nearby solar farms. Mr. Beck  
13          concluded at the end of his executive  
14          summary the effect on housing prices  
15          in the less expensive range, \$250,000  
16          and less, not likely but the negative  
17          effect on immediate and adjoining  
18          properties increases as the home  
19          value goes up, and he provided data  
20          in his report to support that. Mr.  
21          Beck also provided information in his  
22          -- in his report about the specific  
23          property values already mentioned by  
24          Commissioner Oakes, that the buyer  
25          walked away specifically because of

1 the proposed solar farm and would not  
2 reconsider, even with a further  
3 significant reduction in the asking  
4 price. Both sides mentioned Clay  
5 County in their testimony and in  
6 their documents. Pardon me if I  
7 mispronounce it. Tusquittee Trace.  
8 Is that right? Mr. Kirkland actually  
9 provided nothing specific in his  
10 report. Mr. Beck's report showed  
11 target property values of about  
12 325,000. Some lots have a view of a  
13 small solar farm. The solar farm is  
14 visible at the entrance and while  
15 driving on interior roads. No sales  
16 at all since the solar farm was  
17 constructed and the owner says due to  
18 the solar farm and has confirmed it  
19 with real estate brokers. Board of  
20 Equalization and Review action. Mr.  
21 Beck included information from the  
22 county manager and the tax department  
23 in Clay County that the Board of  
24 Equalization and Review reduced  
25 nineteen properties by an average of

1           thirty percent -- it's on page  
2           twenty-four of his report -- due to a  
3           decrease in property values caused by  
4           a nearby solar farm. Properties were  
5           supposed to sell for approximately  
6           \$300,000 and up. No sales since.

7           This -- this contention was  
8           challenged by Mr. Midenthorpe, -- I  
9           may have that name incorrect -- who  
10          testified for Strata Solar, who said  
11          in testimony that his Clay County tax  
12          -- that he had a conversation with  
13          the Clay County tax office and that  
14          person said the action was pushed by  
15          a county commissioner and no evidence  
16          was presented to support the  
17          reduction in values. To accept that  
18          as an accurate statement, we would  
19          have to believe that the county Board  
20          of Equalization and Review and the  
21          tax department head and the county  
22          commissioners all would knowingly and  
23          willfully violate state statutes  
24          nineteen times to accept this as  
25          valid. Based on my own experience of

1           several years on the Board of  
2           Equalization and Review, knowledge of  
3           statutory requirements placed on the  
4           board and the tax department head and  
5           the Board of Commissioners, I don't  
6           accept that as credible. Southridge,  
7           South Carolina. Mr. Beck's report  
8           and testimony used an analogy of a  
9           twenty-nine-acre call center in  
10          Southridge, South Carolina, as  
11          incompatible commercial use next to a  
12          high-priced subdivision, high-priced  
13          specifically being four hundred to  
14          800,000. Matched pair sales before  
15          the call center was built showed a  
16          value appreciation average of  
17          twenty-one percent. Matched pair  
18          sales before and after the call  
19          center was built show a value decline  
20          average of fifteen percent. There  
21          was a challenge by Strata Solar to  
22          the validity of that analogy, but it  
23          was not convincing. Other county  
24          official policy on solar farms and  
25          property value impact, we looked at

1           that. I looked at that. Strata  
2           Solar, Mr. Kirkland, and their  
3           experts presented no data or  
4           information on any other county or  
5           municipality's view of solar farm  
6           impacts on property values. Mr.  
7           Beck's report presented information  
8           on Shelby County, Yadkin County,  
9           Robeson County, Laurinburg City, that  
10          restricted solar farms based  
11          partially on a likely reduction in  
12          adjacent property values. Finally,  
13          statistically valid reports. Both --  
14          both sides had identical positions  
15          that statistical analysis of property  
16          value effects from a nearby solar  
17          farm are not possible due to  
18          insufficient data. True. Strata and  
19          its experts presented no research or  
20          data on anything analogous. The Beck  
21          report provided four published  
22          statistical analyses of public  
23          utility proximity effects on property  
24          values, and there's no real challenge  
25          to this. They were warned, two of

1                   them (indecipherable). All concluded  
2                   with statistical certainty that  
3                   proximity negatively affected the  
4                   property values. Proximity  
5                   negatively affected property values,  
6                   statistical certainty. One in  
7                   particular dealt exclusively with  
8                   residential property values and used  
9                   a multi-variate regression analysis,  
10                  which is considered the gold standard  
11                  by the Appraisal Institute, and found  
12                  a small but negative effect on  
13                  property values for typically-priced  
14                  homes, as I mentioned earlier, but a  
15                  statistically significant effect of  
16                  eleven percent on higher-priced  
17                  homes. Should these be considered?  
18                  All were specific to public utilities  
19                  and Strata Solar specifically stated  
20                  the proposed solar farm is a public  
21                  utility, on December 2nd, 2013,  
22                  hearing, video part one, time one  
23                  hour, fifteen minutes approximately,  
24                  so it's reasonable to treat it as  
25                  such. The use of the statistical



1 documentation provided by Mr. Beck is  
2 absolutely valid and it documents to  
3 a statistical certainty the negative  
4 impact on property values of nearby  
5 public utility association  
6 (indecipherable). The evidence --  
7 that evidence alone supports denial  
8 of the conditional use permit. Thank  
9 you for your patience.

10 MR. BEAM: Any further discussion?

11 MR. OAKES: Mr. Chair, I'd like to amend  
12 my earlier statement. I attempted to  
13 read this verbatim (indecipherable).

14 MR. BEAM: (Indecipherable.)

15 MR. DEATON: We need to speak up for the  
16 court reporters. You said you had  
17 provided a copy of the order for  
18 the --

19 MR. OAKES: I said that I read it  
20 verbatim, but I'm not sure that I did  
21 because I think I may have missed  
22 some things, so I would prefer to use  
23 the verbal record to amend the  
24 written.

25 MR. DEATON: Okay.

1 MR. BEAM: Any further discussion? And to  
2 reaffirm your -- is to deny the  
3 special use permit in this matter; is  
4 that correct?

5 MR. DEATON: That's correct.

6 MR. BEAM: All right. Do we have a  
7 motion?

8 MR. OAKES: Is it a special use or a  
9 conditional use?

10 MR. DEATON: Conditional use. It's a  
11 motion to deny (indecipherable).

12 MR. BEAM: The -- any further discussion?  
13 Hearing none, all in favor of this  
14 motion, do say by saying aye. Aye.

15 MR. PERMENTER: Aye.

16 MR. OAKES: Aye.

17 MS. MCCALL: Aye.

18 MR. BEAM: All opposed?

19 MR. MITCHEM: No.

20 MR. BEAM: Motion carries four to one.

21 MR. DEATON: Thank you, Commissioners.

22 (WHEREUPON, the proceeding was concluded  
23 at 7:37 P.M.)

24

25 \* \* \* \* \*

1 STATE OF NORTH CAROLINA )  
2 COUNTY OF CATAWBA ) C E R T I F I C A T E

3  
4 I, Kimberly S. Crosby, BA, CVR-M, do  
5 hereby certify that I reported in voice shorthand  
6 the foregoing pages of the above-styled cause and  
7 that they were prepared by computer-assisted  
8 transcription under my personal supervision and  
9 constitute a true and accurate record of the  
10 proceedings conducted therein;

11 I further certify that I am not an  
12 attorney or counsel of any parties, nor a relative  
13 or employee of any attorney or counsel connected  
14 with the action, nor financially interested in the  
15 action;

16 WITNESS my hand, this 25th day of July,  
17 2017, in the City of Hickory, County of Catawba,  
18 North Carolina.

19  
20 \_\_\_\_\_  
21 Kimberly S. Crosby, BA, CVR-M  
Notary Public No. 19985310084

22 PLEASE NOTE that unless otherwise specifically  
23 requested in writing, the audio backup recording for  
24 this transcript will be retained for thirty days  
25 from the date of this certificate.