

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JULY 17, 2017

The Lincoln County Board of County Commissioners met July 17, 2017 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

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

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 July 17, 2017 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence, asking everyone to remember the family of Duane Crawley, a County employee who passed away, and led in 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, July 17, 2017
6:30 PM

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

Call to Order - Chairman Bill Beam

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 1. Vehicle Tax Systems Refunds for June, 2017
 2. Surplus Property

3. Sponsored Group Status for YMCA Prayer Breakfast
4. Tax Requests for Releases (more than \$100) for May 16 - June 15, 2017
5. Approval of Minutes
3. Planning Board Recommendations - Andrew Bryant
4. Public Hearing to receive input concerning the proposed sale to STEM Career Path Project, Inc., a non-profit corporation, of that building located at 130 Rhodes St., Lincolnton, NC 28092, which is also known as the Block Smith Gym - Wesley Deaton
 - Consideration of Resolution for Private Sale
5. ~~Public Hearing - Industrial Incentive Grant for Existing Industry - John Dancoff~~
6. Public Hearing - Solid Waste Ordinance Amendment - Don Chamblee
 - Resolution Adopting and Ordinance Amending Regulations for the Proper and Lawful Management and Disposal of Solid Waste and Recycling within Lincoln County and the Administration and Enforcement Thereof
7. Amendments to Agreement for Completion of Improvements: Trilogy Lake Norman - (Carolina Ridge) Jeremiah Combs
 - Parcel G/H Map 1 & 2
 - Parcel G/H Map 3
 - Parcel G/H Map 4
 - Parcel A Map 1
8. Request from Public Works to purchase a 2018 Knuckleboom truck for \$140,478.00 with an additional \$2,250.00 for the alternate Peterbilt Chassis for a total purchase price of \$142,728.00 (piggyback purchase from Elizabethtown, NC) - Don Chamblee
9. Adoption of a Resolution to call for a public hearing on the installment purchase agreement for the August 7, 2017 BOC meeting - Scott Cook
10. Adoption of a Resolution to call for a public hearing on debt refunding (2010B and 2011B school issuances) - Scott Cook
11. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
12. Appointment of Commissioner McCall as voting delegate for NCACC and NaCO Conferences
13. Approval for the Fire Marshal's Office to move forward with the VIPER Radio Project in the sum of \$4,537,830.76 - Rodney Emmett
14. Finance Officer's Report - Scott Cook
15. County Manager's Report
16. County Commissioners' Report
17. County Attorney's Report
18. Vacancies/Appointments

19. Calendar

20. Other Business

Information Only - No Action Needed

- Register of Deeds Report
- Property Tax Collection Report

21. Closed Session to consult with County Attorney

Adjourn

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the agenda removing Item 5.

Consent Agenda: Kelly Atkins gave an overview of the Consent Agenda items:

Consent Agenda

1. Vehicle Tax Systems Refunds for June, 2017
2. Surplus Property
3. Sponsored Group Status for YMCA Prayer Breakfast
4. Tax Requests for Releases (more than \$100) for May 16 - June 15, 2017

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the Consent Agenda as presented.

Planning Board recommendations: Andrew Bryant presented the following:

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 O-R (Conditional Zoning Office Residential) to permit an existing 5,000-square-foot building to be used for offices. 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.

The Planning Board voted 8-0 on June 5, 2017, to recommend disapproval.

The Board of Commissioners voted 5-0 on June 19, 2017, to table the case. Since that time, the applicant has proposed 4 conditions on this property: 1 – the building may not be expanded and may be used for offices only by the owner at any given time; there shall be no multi-tenant use of the building. This condition is not intended to prohibit or otherwise prevent repairs or alterations that may be necessary to maintain the safety of the structure 2 – no trucks with more than 2 axles may be parked on the property 3 – no hazardous materials may be stored within the building – this shall include but is not limited to commercial cleaning materials intended for use off the property; 4 – no additional non-residential structures may be constructed on the property. These conditions have been proposed by the applicant and his attorney for consideration in lieu of the Planning Board's negative recommendation.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the statement of consistency and reasonableness for CZ #2017-2 – Vasily Sushch, applicant.

This proposed amendment **is not consistent** with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: **This property is part of an area designated by the Land Use Plan as Rural Residential, suitable for low-density residential development.**

However, the building already exists, and denying the request will not magically make the building vanish, but will result in a building that will not be maintained and it will deteriorate, leading to a hazard in itself.

This proposed amendment **is reasonable and is in the public interest** in that:

Permitting some limited use will cause the building to be maintained, which is an improvement on the current state.

It is also in the best interests of the community that small businesses not be overly hindered.

There can be no traffic concerns that a business which might generate 15-20 trips per day at most, would impact a state highway which carries 8,000 vehicles/day, including significant large truck traffic.

Therefore, as the applicant has agreed to the conditions listed below, the application is approved with the following conditions:

- 1) The building may NOT be expanded, and may be used for offices ONLY by the owner at any given time; there shall be no multitenant use of the building. This condition is not intended to prohibit or otherwise prevent repairs or alterations that may be necessary to maintain the safety of the structure.
- 2) No trucks with more than 2 axles may be parked on the property.
- 3) No hazardous materials may be stored within the building; this shall include but is not limited to commercial cleaning materials intended for use off the property.
- 4) No additional non-residential structures may be constructed on the property.

Commissioner McCall asked if this was something that should go back before the Planning Board for consideration. Christine Poinsette, Planning Board Chair, said the Planning Board felt very strongly about leaving this property residential so she did not feel that the additional conditions would change their recommendation.

UPON MOTION by Commissioner Permenter, the Board voted unanimously to approve CZ #2017-2 – Vassily Sushch, applicant.

Public Hearing to receive input concerning the proposed sale to STEM Career Path Project, Inc., a non-profit corporation, of that building located at 130 Rhodes St., Lincolnton, NC 28092, which is also known as the Block Smith Gym - Wesley Deaton presented the following:

On two different occasions, Mr. Edward McFadden has spoken to the Board concerning his ideas for his non-profit to take over the Block Smith Gym for a Science/Learning Center there. After his presentations, the Board asked for a draft purchase agreement for nominal consideration with Mr. McFadden's group to take over the building and maintain it. A public hearing is required to move forward with this.

Chairman Beam opened the public hearing.

Randall Stevens, 120 East Rhodes Street, asked what happens if the conditions are not met, if it will revert back to the county. He said in one place in the document it says there may be covenants in the deed, but does not say shall.

Mr. Deaton said he wanted to give the county the right to put these restrictions in the deed, if they should get to that point 18 months from now, and that was why the word may was used. He said the property will not automatically revert to the county and explained the rationale for this.

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

UPON MOTION by Commissioner Oakes, seconded by Commissioner McCall, the Board voted unanimously to approve Resolution #2017-8: A Resolution for Private Sale, changing the word may to shall, regarding covenants, in the agreement.

RESOLUTION #2017-8: A RESOLUTION FOR PRIVATE SALE

THAT WHEREAS, Lincoln County (the “County”) owns that real property located at 130 Rhodes St., Lincolnton, NC 28092, known as the Block Smith Gym; and

WHEREAS, STEM Career Path Project, Inc. (“STEM”), is a North Carolina non-profit corporation, whose purpose is to teach, and to encourage the study of, the subjects of science, technology, engineering and math among children and young adults; and

WHEREAS, STEM has approached the County about assuming the ownership of the Block Smith Gym for the purpose of creating a science and learning center; and

WHEREAS, the Board has determined that the Block Smith Gym is outdated, in need of repair, and causes the County excessive cost and maintenance; and

WHEREAS, the Board has determined that STEM's stated goals constitute a public purpose; and

WHEREAS, the Board desires to sell the Block Smith Gym to STEM for a nominal purchase price pursuant to the terms and conditions of that purchase agreement attached hereto as Exhibit "A," because the Board believes the benefits the County will receive in (1) STEM assuming the obligations of maintenance and (2) creating its intended science and learning center constitute a public purpose and sufficient consideration.

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

1. That the County is authorized to sell the Block Smith Gym, located at 130 Rhodes St., Lincolnton, NC 28092, to STEM Career Path Project, Inc., pursuant to the terms and conditions of that purchase agreement attached hereto as Exhibit "A," by private sale.
2. That Kelly G. Atkins is authorized to enter into the purchase agreement attached hereto as Exhibit "A," and to take all action commensurate therewith to dispose of said real property by private sale pursuant to the terms of said agreement.
3. That a notice summarizing the contents of this resolution shall be published once after the adoption of this resolution, and no sale shall be consummated under the agreement attached hereto until 10 days after the publication of said notice.
4. That this Resolution shall become effective immediately upon its adoption.

Adopted this the 17th day of July, 2017.

LINCOLN COUNTY

Bill Beam, Chairman
Board of Commissioners

ATTEST:

Amy Atkins
Clerk of the Board of Commissioners

Public Hearing - Solid Waste Ordinance Amendment - Don Chamblee
Resolution Adopting and Ordinance Amending Regulations for the Proper and Lawful
Management and Disposal of Solid Waste and Recycling within Lincoln County and the

Administration and Enforcement Thereof: Don Chamblee presented the Board with amendments to the Solid Waste Ordinance.

The Board discussed some of the changes and Mr. Atkins asked the Board to table this to make the Ordinance a little more flexible.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to table until the 2nd meeting in August.

Amendments to Agreement for Completion of Improvements: Trilogy Lake Norman - (Carolina Ridge) Andrew Bryant presented the 4 agreements for Trilogy Lake Norman, extending time frames and changing the scope for work already completed.

Parcel G/H Map 1 & 2

Parcel G/H Map 3

Parcel G/H Map 4

Parcel A Map 1

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Amendments to Agreement for Completion of Improvements for Trilogy Lake Norman (Carolina Ridge) as presented.

Request from Public Works to purchase a 2018 Knuckleboom truck for \$140,478.00 with an additional \$2,250.00 for the alternate Peterbilt Chassis for a total purchase price of \$142,728.00 (piggyback purchase from Elizabethtown, NC) Mr. Chamblee presented the following:

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the purchase of a 2018 Knuckleboom Truck for \$140,478.00 with an additional \$2250.00 for the alternate Peterbilt Chassis for a total purchase price of \$142,720.00 (based on a piggyback purchase from Elizabethtown, NC).

Adoption of a Resolution to call for a public hearing on the installment purchase agreement for the August 7, 2017 BOC meeting:

RESOLUTION CALLING PUBLIC HEARING

Commissioner Mitchem moved adoption the following resolution, that motion was seconded by Commissioner Oakes, and the resolution was read by the above title.

WHEREAS, the Board of Commissioners (the “Board”) for the County of Lincoln, North Carolina (the “County”), is required by NCGS 160A-20 to hold a public hearing in connection with a proposed installment financing of the Health Department Renovation and the Fire Marshall FM1 Viper projects, and the Board wants to call that public hearing;

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

Section 1. The Board hereby calls a public hearing relating to the installment financing described above, to be held during the Board’s regularly scheduled meeting on August 7, 2017.

Section 2. This resolution shall take effect immediately upon its passage.

The motion to adopt the resolution was adopted by the following vote:

AYES: Mitchem, Oakes, Beam, McCall, Permenter

NAYS: None

Adoption of a Resolution to call for a public hearing on debt refunding (2010B and 2011B school issuances)

RESOLUTION RELATED TO REFUNDING BONDS

Commissioner Mitchem moved adoption the following resolution, that was seconded by Commissioner Oakes, and the resolution was read by the above title.

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina (the “County”), is considering authorizing the issuance of refunding bonds of the County in an aggregate principal amount not exceeding \$13,700,000 for the purpose of providing funds, with other available funds, for refunding all or a portion of certain outstanding general obligation bonds, including paying expenses related thereto, and it is necessary to take certain related action at this time;

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

Section 1. Said Board hereby finds and determines in connection with authorizing the issuance of such bonds that (i) the issuance of such bonds is necessary or expedient in order to realize debt service savings for the County, (ii) the principal amount of such bonds is adequate and not excessive for the proposed purpose of such bonds because it is based upon the best estimate of the County of the funds needed for such purpose and takes into account other funds of the County available for such purpose, (iii) the County’s debt management procedures and policies are good and are managed in strict compliance with law, (iv) the increase in taxes, if

any, necessary to service such bonds will not be excessive because it is expected that debt service savings will be realized in connection with the issuance of such bonds and (v) such bonds can be marketed at reasonable rates of interest.

Section 2. The County Manager, the Finance Director and the County Attorney of the County are each hereby authorized to take such actions as may be advisable in connection with authorizing the issuance of such bonds; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed. The Finance Director is authorized to engage necessary professionals in connection with the issuance of such bonds.

Section 3. The Local Government Commission is hereby requested to sell the bonds at private sale without advertisement to the Raymond James Capital Funding, Inc. (the "Purchaser"), subject to the approval of the County Manager or Finance Director, in accordance with the proposal of the Purchaser dated June 21, 2017 in the form presented to the Board of Commissioners (the "Proposal"). The Proposal is hereby approved and the County Manager and the Finance Director are each hereby authorized to execute and deliver the Proposal in substantially such form as may be required, with such changes, additions and omissions as may be approved by the County Manager or the Finance Director.

Section 4. This resolution shall take effect immediately upon its passage.

The motion to adopt the resolution was adopted by the following vote:

Unanimously approved.

**RESOLUTION INTRODUCING AND ADOPTING BOND ORDER AND TAKING
RELATED ACTION**

Commissioner Oakes moved adoption of the following resolution, that motion was seconded by Commissioner Mitchem, and the resolution was read by the above title.

**BOND ORDER AUTHORIZING THE ISSUANCE OF \$13,700,000 REFUNDING
BONDS OF THE COUNTY OF LINCOLN**

WHEREAS, the Board of Commissioners (the "Board") for the County of Lincoln (the "County") deems it advisable to refund all or a portion of the County's outstanding (a) General Obligation School Bonds, Series 2010B and (b) General Obligation School Bonds, Series 2011B

(collectively referred to herein as the "Bonds to be Refunded") pursuant to and in accordance with The Local Government Finance Act;

NOW, THEREFORE, BE IT ORDERED by the Board as follows:

Section 1. The Board has ascertained and hereby determines that it is advisable to refund the Bonds to be Refunded.

Section 2. To raise all or a portion of the money required to refund the Bonds to be Refunded as set forth above and to pay expenses in connection therewith, bonds of the County are hereby authorized and shall be issued pursuant to The Local Government Finance Act. The maximum aggregate principal amount of bonds authorized by this bond order shall be \$13,700,000.

Section 3. Taxes sufficient to pay the principal of and interest on those bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the County's debt has been filed with the Clerk to the Board and is open to public inspection.

Section 5. The bond order shall take effect upon its adoption.

The Clerk is hereby directed to publish as prescribed by The Local Government Bond Act the foregoing bond order.

The Finance Director is hereby directed to file with the Clerk to the Board at this meeting a statement setting forth the debt incurred or to be incurred, the appraised value of property subject to taxation by the County and the net debt of the County. That debt statement shows that the County's net debt does not exceed 8% of the assessed value of property subject to taxation by the County.

The Finance Director is hereby further directed to file with the Clerk to the Board at this meeting an estimate of the total amount of interest that will be paid on the proposed bonds over the expected term of the bonds, if issued.

The motion to introduce and adopt the above bond order and take related action was adopted by the following vote:

Unanimously approved.

Public Comments: Chairman Beam opened Public Comments.

Rudy Bauer, 8252 Blades Trail, spoke concerning Covington at Lake Norman and the buffer zone.

Being no additional speakers, Chairman Beam closed Public Comments.

Appointment of Commissioner McCall as voting delegate for NCACC and NaCO Conferences: UPON MOTION by Commissioner Mitchem, the Board voted unanimously to appoint Commissioner McCall as voting delegate for NCACC and NaCO conferences.

Approval for the Fire Marshal's Office to move forward with the VIPER Radio Project in the sum of \$4,537,830.76: Mr. Rodney Emmett, Fire Marshal, presented the following:

The BOC approved a \$4,537,830.76 VIPER Radio Project submitted by the Fire Marshal in the 2018 budget. The radio system will be used by all emergency agencies within Lincoln County. The project covers the cost of new radios, updating the central tower converting it to a VIPER tower, and all equipment for surrounding towers as required by VIPER. Also included is the cost of all installations and engineering. Purchase orders will be issued to multiple vendors and all purchases are from state contract pricing.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve moving forward with the VIPER Radio Project in the sum of \$4,537,830.76.

Finance Officers' Report: Scott Cook presented the Finance Officer's Report.

County Manager's Report: Mr. Kelly Atkins informed the Board that the Library Board has requested a joint meeting with the Commissioners to discuss Library facilities and priorities. It was the consensus to put it on a regular meeting agenda.

He reported that interviews for a Courthouse Architect have been completed and staff should be bringing those to the next board meeting.

County Attorney's Report: Mr. Deaton reported that in the Stata Solar matter, the Dellingers have appealed to Superior Court and there is a 60 day period where records are gathered. The hearing should be late fall.

County Commissioners' Report: Nothing reported.

Vacancies/Appointments: Commissioner Mitchem presented the following appointments:

Workforce Development Board

- Reappoint
 - Gisella Busse
 - Tony Simpson

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to reappoint Gisella Busse and Tony Simpson to the Workforce Development Board.

Planning Board

A MOTION by Commissioner Mitchem to make the following Planning Board appointments:

- Devin Rhyne (At Large – Dancoff's unexpired term)

- **Matt Burton (Lincolnton)**
- **Milton Sigmon (Catawba Springs – Greg Smith’s seat)**
- **Keith Gaskill (Ironton)**

AN AMENDED MOTION by Commissioner Oakes to substitute Matt Fortune for Milton Sigmon for the Catawba Springs seat. VOTE: 3 – 2 AYES: Oakes, Beam, Permenter
NOES: Mitchem, McCall

Vote on original motion: 2 – 3 AYES: Mitchem, McCall
NOES: Oakes, Beam, Permenter

Lincoln Natural Resources:

- **Appoint**
 - **Patty Korn**

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to appoint Patty Korn to the Lincoln Natural Resources Committee.

LEDA:

A MOTION by Commissioner Mitchem to appoint Sam Houser and Reappoint Tom Anderson to the LEDA Board.

- **Appoint**
 - **Sam Houser**
- **Reappoint**
 - **Tom Anderson**

AN AMENDED MOTION by Commissioner Oakes to substitute Kim Phillips for Tom Anderson on the LEDA Board. VOTE: 3 – 2 AYES: Oakes, Beam, Permenter
NOES: Mitchem, McCall

Vote on original motion: 2 – 3 AYES: Mitchem, McCall
NOES: Oakes, Beam, Permenter

Voluntary Ag District Advisory Board

- **Reappoint**
 - **John Beam IV**
 - **Gary Davis**
 - **Gary MacGibbon**

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to reappoint John Beam IV, Gary Davis and Gary MacGibbon to the Voluntary Ag District Advisory Board.

Other Business: Commissioner Oakes asked for the Brunch Bill Ordinance to be placed on the next agenda for the Board's consideration due to the requests from local businesses.

Closed Session: **UPON MOTION** by Commissioner McCall, the Board voted unanimously to enter closed session to consult with the County Attorney.

The Board returned to open session and Chairman Beam announced that no action was taken in closed session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Bill Beam, Chairman
Board of Commissioners