

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, OCTOBER 16, 2017**

The Lincoln County Board of County Commissioners met October 16, 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 October 16, 2017 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence 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, October 16, 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. Surplus Property
  2. VTS Refunds
  3. Tax Requests for Releases \$100 or more - August 16 - September 15, 2017

3. Planning Board Recommendation - Randy Hawkins
4. ~~Public Hearing - Industrial Incentive Grant for Existing Industry - John Daneoff~~
5. Public Hearing - FY 2019 Community Transportation Program Grant (5311) - Ron Rombs
  - Motion to approve the CTP application in the sum of \$662,588
  - Motion to adopt the Resolution for Human Service Transportation grant funding
  - Motion to adopt the Resolution for Public Transportation Program State Funding
6. Updated Transportation Advisory Board (TAB) Bylaws - Ron Rombs
7. Motion to Approve Continuation of Electing Status for the Work First Program for FY 2019-2022 - Susan McCracken
8. Motion to approve Resolution #2017-12: Resolution Exempting Waterside Shoppes Survey from NCGS 143-64.31 - John Henry
10. Revision of Agreement for Rock Creek Development - Don Chamblee
11. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
12. Finance Officer's Report - Deanna Rios
13. County Manager's Report
14. County Commissioners' Report
15. County Attorney's Report
16. Vacancies/Appointments
17. Calendar
18. Other Business

Information Only - No Action Needed

- Register of Deeds Report
- Property Tax Collection Report

Adjourn

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to adopt the agenda, removing Item 4.

**Consent Agenda:** Mr. Atkins reviewed the items on the Consent Agenda.

1. Surplus Property
2. VTS Refunds
3. Tax Requests for Releases \$100 or more - August 16 - September 15, 2017

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

**Planning Board recommendations:** Randy Hawkins presented the following:

**ZMA #639 –Race City Steel, Inc.:** The Planning Board voted 6 – 0 to recommend approval.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve statement of consistency and reasonableness as submitted by the Planning Board.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve ZMA #639 – Race City Steel, Inc., applicant, as recommended by the Planning Board.

**Public Hearing – FY 2019 Community Transportation Program Grant (5311):** Ron Rombs presented the Community Transportation Grant, which is in the amount of \$662,588. This annual grant funds the TLC operation. The Administrative portion is \$245,388, with a 15% match of \$36,809 and the capital portion is \$417,200, with a local match of \$41,720. The capital will include the cost of five replacement LTV's, replacement radios, paving, and security/suveillance equipment.

Chairman Beam opened the public hearing concerning the FY 2019 Community Transportation Grant. Being no speakers, Chairman Beam declared the public hearing closed.

## **PUBLIC TRANSPORTATION PROGRAM RESOLUTION**

### **FY 2019 RESOLUTION**

**Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.**

Applicant seeking permission to apply for Public Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by (*Board Member's Name*) Commissioner Mitchem and seconded by (*Board Member's Name or N/A, if not required*) N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

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

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

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may apply for funding for “purchase-of-service” projects under the Section 5310 program.

WHEREAS, (*Legal Name of Applicant*) Lincoln County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

NOW, THEREFORE, be it resolved that the (*Authorized Official’s Title*)\* County Manager of (*Name of Applicant’s Governing Body*) Lincoln County is hereby authorized to submit grant application (s) for federal and state funding in response to NCDOT’s calls for projects, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.

I (*Certifying Official’s Name*)\* Amy S. Atkins (*Certifying Official’s Title*) Clerk to the Board do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (*Name of Applicant’s Governing Board*) Lincoln County Board of Commissioners duly held on the 16th day of October, 2017.

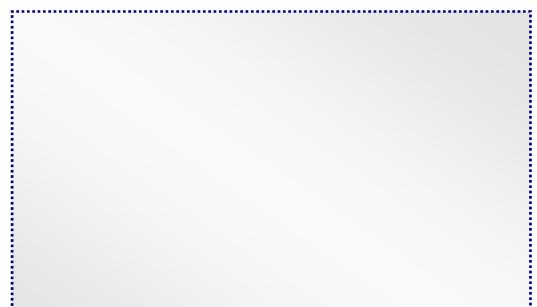
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*Signature of Certifying Official*

**\*Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal Subscribed and sworn to me \_\_\_\_\_

October 16, 2017  
Public Hearing - Zoning



(date) \_\_\_\_\_

\_\_\_\_\_  
*Notary Public \**  
\_\_\_\_\_

\_\_\_\_\_  
*Printed Name and Address*  
\_\_\_\_\_

My commission expires  
(date) \_\_\_\_\_

## **HUMAN SERVICE AGENCY TRANSPORTATION RESOLUTION**

### **State Funds FY 2019 RESOLUTION**

**Section 5311 (ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.**

Applicant seeking permission to apply for Human Service Transportation funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances, and the required local match.

A motion was made by *(Board Member's Name)* Martin Oakes and seconded by *(Board Member's Name or N/A, if not required)* N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

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

WHEREAS, the North Carolina Department of Transportation receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services; and

WHEREAS, the funds applied for may be Administrative, Operating, Planning or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may only apply for funding for “purchase-of-service” projects under the Section 5310 program

WHEREAS, (*Legal Name of Applicant*) Lincoln County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project, prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, and all administrative requirements related to the applications made to and grants received from the North Carolina Department of Transportation;

NOW, THEREFORE, be it resolved that the (*Authorized Official's Title*)\* County Manager of (*Name of Applicant's Governing Body*) Lincoln County is hereby authorized to submit a grant application for state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I (*Certifying Official's Name*)\* Amy S. Atkins (*Certifying Official's Title*) Clerk to the Board do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (*Name of Applicant's Governing Board*) Lincoln Count Board of Commissioners duly held on the 16th day of October, 2017.

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*Signature of Certifying Official*

**\*Note that the authorized official, certifying official, and notary public should be three separate individuals.**

Seal Subscribed and sworn to me  
(date) \_\_\_\_\_



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*Notary Public \**

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*Printed Name and Address*

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My commission expires  
(date) \_\_\_\_\_

**UPON MOTION BY** Commissioner McCall, the Board voted unanimously to approve the CTP application in the sum of \$662,588.

**Updated Transportation Advisory Board (TAB) Bylaws:** Ron Rombs presented the Board with updated Transportation Advisory Board (TAB) Bylaws.

Mr. Rombs stated that the Bylaws have to be approved by the Board of Commissioners. The only change is the actual membership, DOT recommending cutting the Board from 20 members to 11 members.

**SECTION V. MEMBERS** Lincoln County Transportation Advisory Board (TAB) shall consist of; Voting members: Lincoln County Finance Department (1) Representative Lincoln County Senior Services (1) Representative Lincoln County Social Services (1) Representative Lincoln County Health Department (1) Representative Lincoln County Veterans Services (1) Representative Lincoln County Planning & Inspections (1) Representative Lincoln Economic Development Assn (1) General Public/ Representative Vocational/Sheltered Workshop (2) Gaston Skills/Salem Industries

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the updated Transportation Advisory Board Bylaws as presented.

**Motion to Approve Continuation of Electing Status for the Work First Program for FY 2019-2022:** Susan McCracken asked for the Board's approval to continue in the Electing Status for the Work First Program for FY 2019-2022. She presented the following information:

Lincoln County has been in "Electing Status" for the past 19 years. As an "Electing Status" County, we receive block grant funds directly from the Federal government, which we then have the opportunity and responsibility to manage. By managing the caseloads associated with the program and ensuring individuals are working or are preparing for work, we retain the savings. In recent years, the savings have been utilized by other programs and allowed us to fund up to five Children's Services Division staff.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the continuation of Electing Status for the Work First Program for FY 2019-2022 as presented.

**Motion to approve Resolution #2017-12: Resolution Exempting Waterside Shoppes Survey from NCGS 143-64.31:** John Henry presented the request to approve an exemption from the RFQ process according to NCGS 143-64.31. This request is for surveying at Waterside Shoppes, which is needed for an easement for Public Works. Public Works would like to use the original surveyor.

RESOLUTION EXEMPTING WATERSIDE SHOPPES SURVEY

FROM G.S. 143-64.31

WHEREAS, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively "design services") to be based on qualifications and without regard to fee;

WHEREAS, the County proposes to enter into one or more contracts for design services for work on surveying Waterside Shoppes; and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.32 if the estimated fee is less than \$50,000; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY RESOLVES:

Section 1. The above-described project is hereby made exempt from the provisions of G.S. 143-64.31.

Section 2. This resolution shall be effective upon adoption.

**LINCOLN COUNTY**

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**Chairman of the Board of Commissioners**

**ATTEST:**

BY: \_\_\_\_\_ **Clerk to the Board**

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**Printed Name/Title**

**(Affix Seal)**

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Resolution #2017-12: Resolution Exempting Waterside Shoppes Survey from NCGS 143-64.31 as presented.

**Revision of Agreement for Rock Creek Development:** Don Chamblee presented the Revision to the Agreement for Rock Creek Development.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Amendment to Reimbursement and Cooperation Agreement as presented.

**AMENDMENT TO REIMBURSEMENT AND COOPERATION AGREEMENT**

This AMENDMENT (“Amendment”) is made the 16<sup>th</sup> day of October, 2017, between Campground 64, LLC, a North Carolina limited liability company (hereinafter referred to as the “Developer”) and Lincoln County, a body corporate and politic (hereinafter referred to as the “County”);

**RECITALS**

WHEREAS, on the 31st day of January, 2017, the Developer and the County entered into a Reimbursement and Cooperation Agreement (the “Original Agreement,” or collectively with this Amendment, the “Agreement”) whereby the Developer agreed to make certain improvements to the sewer pump station being known and identified as “Sewer Pump Station #11” in exchange for certain reimbursements by the County; and

WHEREAS, the Developer is developing a certain subdivision located off of Campground Road in Catawba Springs Township, Lincoln County, North Carolina, to be known as “Rock Creek Subdivision” (the “Property”) and to be serviced by Sewer Pump Station #11; and

WHEREAS, the Developer desires approval from County to substantially complete development of, and begin selling, those certain 49 lots that comprise Phase I of the Property before the expiration of this Agreement; and

WHEREAS, Sewer Pump Station #11 is located on a certain parcel of real property off of North NC-16 Business Highway in Catawba Springs Township, Lincoln County, North Carolina, having Lincoln County PIN Number 3695809731 (“PIN 3695809731”);

WHEREAS, a portion of certain improvements previously made to Sewer Pump Station #11 may be located on a certain parcel of real property adjacent to PIN 3695809731, said adjacent parcel being located at 3387 North NC-16 Business Highway, having Lincoln County Tax PIN Number 3695827198 (“PIN 3695827198”) and being owned by Dirkje Van Wingerden (1/3 interest), Aart W. Van Wingerden (1/3 interest), and Thomas B. Van Wingerden (1/3 interest) (collectively the “Wingerdens”); and

WHEREAS, the County and Developer desire that County and Developer, if necessary, obtain legal access to Sewer Pump Station #11, including any portions or improvements thereto located on PIN Number 3695827198, owned by the Wingerdens.

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Paragraph 6 of the Original Agreement is deleted in its entirety and the following is inserted in lieu thereof:

6. The parties acknowledge that there is an existing sewer pump station along Highway 16 North Business (the “Existing Sewer Pump Station”), which Developer shall be entitled to use to provide service to its model homes and other homes within the Project, to the extent allowed by the UDO, pending completion of the Upgrade to Sewer Pump Station #11 and the extension of 730 LF of Gravity Sewer Line. Developer shall construct the Upgrade to Pump Station #11 and the Sewer Line in compliance with the submitted plans for the Project prepared by Bluestone Land Management, PLLC, and entitled Project: Contract #5, Pump Station #11, NCDEQ Permit # WQ0011095 MODIFICATION, dated October 10, 2016, and all specifications and guidelines set by the County. Developer shall complete the construction of the Upgrade to Sewer Pump Station #11 and the extension of 730 LF of gravity Sewer Line by October 31, 2018. **TIME IS OF THE ESSENCE.**

The parties further acknowledge that a portion of Sewer Pump Station #11 may lie on Lincoln County PIN 3695827198 owned by the Wingerdens. No later than October 23, 2017, Developer shall obtain written confirmation from a North Carolina licensed surveyor as to whether Sewer Pump Station #11, and all improvements thereto, is in fact lying completely within its previously conveyed easement area or is in any part outside of said easement area. The surveyor shall prepare a survey and mark the easement area, and current location of Sewer Pump Station #11, with pins. If a portion of Sewer Pump Station #11 is found to be in whole or in part located outside of its easement area, no later than December 31, 2017, Developer shall obtain and cause to be recorded in the Lincoln County Register of Deeds an easement (the “Wingerden Easement”) from the Wingerdens allowing access by the Developer or the County on, over and across any portion of Parcel 3695827198 on which Sewer Pump Station #11 is located, or is otherwise necessary to cross in order to access and maintain Sewer Pump Station #11.

Said Wingerden Easement shall: (1) specify that it is permanent and is to run with the land, (2) conform to all Lincoln County Design Standards as set out in the UDO or otherwise, and (3) provide sufficient access to County and Developer for proper maintenance of Sewer Pump Station #11. **TIME IS OF THE ESSENCE.**

2. Developer represents that all work to the sewer lift stations (excluding therefrom any lines thereto) is complete, and that all required new pumps, generators and a wet well are installed. Developer acknowledges that all such completed work remains subject to the final review and approval of the County.

3. The parties will complete final review in accordance with the Utility Design Standards for submittal to NC DEQ for Sewer Pump Station #11 to service Phase I of the Property. County will allow Developer, subject to any utility design manual requirements or mandatory NCDEQ approval, to connect Phase I of the Property to sewer utilities, upon Developer’s compliance with

the terms of this Agreement.

4. Developer shall be required to complete the extension of the gravity lines ("Gravity Line Extension") as defined in the Original Agreement before the County will, in its sole discretion, upon sufficient capacity available at the time of request, and upon all requisite conditions being met by Developer, provide sewer capacity in accordance with the Utility design standard manual requirements for any future phases of the Property, including but not limited to any proposed Phase II or Phase III.

5. The Gravity Line Extension shall be constructed in accordance with those engineered drawings, plans and specifications submitted to the County concurrently with the execution of the original Agreement, which the parties acknowledge require a flow of no less than 400 gallons per minute. Upon Developer having constructed the Gravity Line Extension, it shall submit the same to the County for testing and approval. In the event that the flow is less than as provided above, the Developer may request the County to re-test the flow to determine that it meets the drawings, plans and specifications. The County shall have no obligation to reimburse the Developer any monies described in the Agreement, as amended herein until the County has determined that the Gravity Line Extension, Pump Station #11, and any wet wells, meet the previously engineered drawings, plans and specifications.

6. Bond Security. The developer will complete the work required in the terms of the Original Agreement, including, but not limited to, the two sections of Highway 16 gravity line improvements. The Developer shall post a cash or secured bond or letter of credit to guarantee completion of the agreement in accordance with the County UDO standards. The parties acknowledge that the Developer may initially place with the County a cash bond to satisfy this provision, but that such bond may be replaced by a secured bond or letter of credit in similar amount approved by the County.

7. Termination Date. This Agreement shall expire on that date being five (5) years from the date of the Original Agreement.

8. Defined Terms. Each capitalized term in this Amendment shall have the meaning ascribed to it in the Original Agreement unless otherwise stated herein.

9. Except as modified herein, all terms and conditions of the Original Agreement remain in full force and effect, including, but not limited to, successful extension by Developer of the gravity lines as referred to in the Original Agreement.

(Signatures on following page)

**Public Comments**: Chairman Beam opened Public Comments.

Keith Gaskill, 465 Timber Road, Iron Station, thanked Chairman Beam and Kelly Atkins for attending the Resident's Rights Celebration.

Larry Varner, 1746 Powerline Rd, said he has applied for van driver jobs 8 times and feels discriminated against for not being hired.

Commissioner Mitchem asked for a report back concerning who is hired for positions and how applicants are notified if they are not hired.

Being no additional speakers, Chairman Beam closed Public Comments.

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

Commissioner Oakes asked about contracted services in the Health Department's budget. He asked for these amounts to be trackable in the budget.

**County Manager's Report:** Mr. Kelly Atkins informed the Board that the budget preparation manual has been presented to department heads. The first budget work session will be at December 15 at 9:00 a.m. and the planning retreat with the Board of Education will be on January 25, 2018 at 6:30 p.m. He advised the Board that the offer for the Center Drive property has been accepted and will be on the November 6 agenda.

**County Attorney's Report:** Nothing reported.

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

**Vacancies/Appointments:** Commissioner Mitchem presented the following appointments:

Planning Board

- Appoint
  - John Marino (Andrew Robinson's unexpired term ending 6/30/18)

Airport Authority :

- Appoint David Carpenter

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to appoint John Marino to the Planning Board to Andrew Robinson's unexpired term ending 6/30/18 and David Carpenter to the Airport Authority.

Commissioner Mitchem presented the following vacancies:

Current Vacancies:

- Nursing and Adult Care Home Advisory Committee – 5 vacancies
- Board of Adjustment – Alternate

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Bill Beam, Chairman  
Board of Commissioners