

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 19, 2006

The Lincoln County Board of County Commissioners met in regular session on June 19, 2006, at the James W. Warren Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 7:15 p.m.

Commissioners Present:

Thomas R. Anderson, PE, Chairman
James Buddy Funderburk, Vice Chairman
Carrol Mitchem
Marie Moore
Alex E. Patton

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Director of B&LD
Randy Hawkins, Zoning Administrator
Andrew Bryant, Associate Planner
Candi Cornwell, Review Officer
Audrey Setzer, Director of Personnel
Steve Gilbert, Director of Public Works
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the June 19, 2006, meeting of the Lincoln County Board of Commissioners to order.

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

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

JUNE 19, 2006

	7:15 PM	Call to Order
1.	7:16 PM	Adoption of Agenda
2.	7:18 PM	Consent Agenda

- Approval of Minutes
 - June 5, 2006
- Budget Adjustment No. 130 - 140
- NC 73 Council of Planning
- Tax Requests for Refunds
 - 5/22 – 6/4/06
- Tax Refunds Corrections/Amendments
- Tax Release Corrections
- Letter of Credit #41
- Letter of Credit #45
- Revised Lake Norman RPO Memorandum of Understanding
- Release of Letter of Credit
- Boger City VFD – Tax Exempt Loan
- Denver Fire Insurance Boundary Lines

3. 7:20 PM Public Comments

4. 7:35 PM Budget Public Hearing

5. 7:50 PM Public Hearing – Incentive Grant for Room&Board Corp. – Barry Matherly

6. 8:00 PM Supplement for Declaration of Covenants, Conditions and Restrictions for the Lincoln County Industrial Park – Barry Matherly

7. 8:05 PM Recommendations from Planning Board

ZMA #530 – Ronnie Carswell, applicant.
 CUP # 201A – Gary Dellinger, applicant.
 PCUR #134 – Ronnie Carswell, applicant
 PCUR #135 – Aston Properties, applicant
 ZTA #529 – Lincoln County, applicant
 ZTA #520 – Lincoln County, applicant

8. 8:35 PM Classification and Pay Plan Study – Audrey Setzer

9. 8:45 PM Strategic Plan for Fire and Emergency Services – Steve Allan

10. 9:15 PM Capital Project Report – Steve Gilbert

11. 9:20 PM Finance Officer's Report

12. 9:25 PM County Manager's Report

13. 9:30 PM County Commissioners' Report

14. 9:35 PM County Attorney's Report

15. 9:45 PM Vacancies/Appointments

16. 9:50 PM Calendar

17. 9:55 PM Other Business

18. 10:00 PM Closed Session

Adjourn

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to adopt the agenda.

Consent Agenda:

- Approval of Minutes
 - June 5, 2006
- Budget Adjustment No. 130 – 138
 - No. 130: To increase revenues & expenditures for '04 Homeland Security Equipment Grant
 - No. 131: To increase revenues & expenditures of Duke Discretionary Budget
 - No. 132: Increase Funding for Economic Development CIP per approval 6/5/2006
 - No. 133: Cover expenses of Courthouse repairs for Security upgrades & housing of juveniles
 - No. 134: Cover expenses
 - No. 135: Increases to cover overages in Revenue & overages in Expense Accounts as a result of increased revenue
 - No. 136: Cover expenses VFD County costs
 - No. 137: Cover expenses
 - No. 138: Cover expenses Emergency Ambulance
- NC 73 Council of Planning
- Tax Requests for Refunds
 - 5/22 – 6/4/06

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (May 22, 2006 – June 4, 2006)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
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Mohican Mills, Inc.	2005	City	25634	773.97
			TOTAL	\$ 773.97

LINCOLN COUNTY TAX DEPARTMENT MOTOR VEHICLES	REQUEST FOR REFUNDS
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TOTAL	\$114.10
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- Tax Refunds Corrections/Amendments

The following is a list of corrections/amendments that should be made for Refunds submitted for approval under G.S. #105-381 (B) and 105-325(A)(6):

1. The following Request For Refunds need to be presented to the Board of Commissioners.

- PERIOD COVERED (August 29, 2005 – September 11, 2005)
- PERIOD COVERED (October 17, 2005 – October 23, 2005)
- PERIOD COVERED (January 9, 2006 - January 15, 2006)

2. The following refunds were listed on both the February 6, 2006 and the March 6, 2006 minutes. Please make a correction to the March 6, 2006 minutes to remove the duplication.

- PERIOD COVERED (January 9, 2006 - January 15, 2006)

LINCOLN COUNTY TAX DEPARTMENT MOTOR VEHICLES	REQUEST FOR REFUNDS
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PERIOD COVERED (August 29, 2005 – September 11, 2005)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Sherrill, Tracey D.	2005	ELFD	0173985	\$174.83
			TOTAL	\$174.83

LINCOLN COUNTY TAX DEPARTMENT MOTOR VEHICLES	REQUEST FOR REFUNDS
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PERIOD COVERED (October 17, 2005 – October 23, 2005)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100 (and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
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Cooper, Tony G.	2005	ELFD	21622	\$226.03
Eurey, Paul H. III	2004	CITY	0068933	\$199.17
			TOTAL	\$425.20

PERIOD COVERED (January 9, 2006-January 15, 2006)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00 (and) #105-325 including (A) (6)

NAME REASON	YEAR	DIST	A/C#	AMOUNT
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Castro, Mainor Aguilar	2005	City	0091433	\$114.10
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- Tax Release Corrections

1. The following Request for Releases need to be presented to the Board of Commissioners as they were not included on an agenda.

- Period covered September 16, 2005 – October 15, 2005

NAME	YEAR	DIST	A/C NO	AMOUNT
Bass Grading Inc.	2005	0163216	0163216	\$ 369.15
Baxter, Hugh E.	2005	02241	02241	\$ 1,597.96
Bennett, Walter Lewis II	2004/05	134552	0134552	\$ 360.63
Boger City Baptist Church	2005	33533	33533	\$ 445.63
Campbell, Sandra F.	2004/05	0169343	0169343	\$ 138.00
CPI Packaging Inc.	2003	0165994	0165994	\$ 411.18
Dalesandro, Frank	2005	0153549	0153549	\$ 306.52
Davis Edwin Metro Logging	2005	36772	36772	\$ 726.00
Dellinger, Albert E.	2005	1870	01870	\$ 345.71
Edwards Pipeline Co. Inc.	2004/05	37060	37060	\$197,833.98
IFS Group Inc.	2004	0171112	0171112	\$ 279.51
Price, Betty M.	2002-04	0061227	0061227	\$ 1,215.38
Stathopoulos, Spero G.	2005	0168262	0168262	\$ 581.00
Timberline Aviation	2005	01383811	0183811	\$ 442.20
Turbyfill, Helen L. & Darris	2005	39821	39821	\$ 6,555.28
			TOTAL	\$211,608.13

NAME	YEAR	DIST	A/C NO	AMOUNT
Banner, Ford Jr.	2005	City	0076470	\$ 264.44

Bitsche, Amy Nicole	2005	City	0186874	\$ 160.84	
Cook, Lee Ann	2005	City	0187150	\$ 290.51	
Cooper, Miles Arland	2005	N-321	0078846	\$ 440.79	
Dixon, April Hogue	2004	City	0177066	\$ 107.61	
Gaston, Joanne Sutton	2005	ELFD/ELSD	0177877	\$ 109.96	
Hall, Diane McClain	2005	City	0095277	\$ 258.30	
Hines, Kelly Scott	2003/0	ALFD	0170770	\$ 226.00	
Hunter, Mathew T.	4	2005	City	0186385	\$ 277.53
Keene, Matthew Eric	2005	BCFD	0176971	\$ 129.25	
Leatherman, Randy					
Eugene	2005	NBFD	0093190	\$ 222.93	
Maners, Benny Daryl	2005	N-321	0078884	\$ 117.91	
Nagim Corp.	2005	City	0096397	\$ 217.39	
Okuda, James Michael	2005	City	0187216	\$ 134.52	
Patterson, Tina Marie	2005	City	0159312	\$ 110.69	
Pruette, Carrell	2005	City	0119898	\$ 227.86	
Salerno, Russell Jr.	2005	ELFD/ELSD	0115941	\$ 190.70	
Stiles, Calvin Grant	2005	City	0187890	\$ 309.70	
Sucharda, Christian Wayne	2004	N-321	0137765	\$ 221.52	
Weaver, Larry Eugene	1999/0	N-321	0126547	\$ 225.58	
Young, Kevin Andrew	0	2005	City	0181219	\$ 217.95
			TOTAL	\$ 4,461.98	

2. The following Request for Releases need to be included in the following minutes.

- Period covered (October 16, 2005 – November 15, 2005)

NAME	YEAR	DIST	A/C NO	AMOUNT
Alexander, Charlie Edgar	2005	ELFD/ELSD	17347	\$ 122.07
Alexander, Nina Blair	2005	DFD	0187821	\$ 106.87
Alexander, Patricia Propst	2005	City	0187880	\$ 153.89
Ari, Lale D.	2005	City	39949	\$ 131.14
Brookshire, Gregory Dale	2005	City	0179691	\$ 132.56
Burton, Kelly Dawn	2005	N-321	0180173	\$ 109.33

Chowdhury, Nazrul Ahsan	2005	City	0187591	\$ 414.53
Davis, Doris Bush	2005	City	0075646	\$ 282.43
Dellinger, Dennis Wayne	2005	Crouse	0077712	\$ 219.21
Dwyer, James Joseph	2005	City	0187675	\$ 283.02
Eller, Wanda Beavers	2005	City	0187839	\$ 138.06
			TOTAL	\$ 2,093.11

NAME	YEAR	DIST	A/C NO	AMOUNT
Burton, Robert Michael	2001-05	N-321	37521	\$ 296.83
Click, Jessie Allen	1997-00	Crouse	0097786	\$ 544.72
Cobra Land Cleaning	2005	DFD/ELSD	0179159	\$ 1,270.50
Cook, Marshall Daniel	2003-05	HCFD	03188	\$ 302.78
Englert, Egon	2005	ELFD/ELSD	0188922	\$ 190.48
			TOTAL	\$ 2,605.31

- Period covered (November 16, 2005 – December 15, 2005)

NAME	YEAR	DIST	A/C NO	AMOUNT
Abernathy, John	2005	ELFD/ELSD	0180705	\$ 306.31
Auten, Raymond Ballard, Melissa F. (Dionne)	2005	ELFD	0141655	\$ 125.09
	1995/96	ELFD	43855	\$ 104.44
Eaker, Jason Allen	2005	City	0161752	\$ 324.32
Fowler, James	2005	ELFD/ELSD	0189024	\$ 228.23
Gibson, James Lewis III	2005	ELFD/ELSD	0189027	\$ 124.82
Grigg, Edmond A. Jr.	2005	Union	0180513	\$ 280.68
Guerrero, Joseph Tracy	2004/05	ELFD/ELSD	0177667	\$ 318.56
Hoover, Wilma E.	2005	Crouse	0180609	\$ 363.00
Law, Reed A.	2005	ELFD/ELSD	0131952	\$ 168.26
Lee, B. R. Industries Inc.	2005	ELFD/ELSD	0060505	\$ 8,376.88
Leeboy Rents Inc.	2005	ELFD/ELSD	0166890	\$ 10,081.77
McCaffrey, Thomas Lee	2005	ELFD/ELSD	0189041	\$ 193.05
Nixon, Ellen J. Oak Apts. Of Lincolnton NC	2005	ELFD/ELSD	18726	\$ 59,013.35
	2005	City	0166172	\$ 1,745.28

Roach, Thomas Matthew	2005	ELFD/ELSD	0170911	\$ 237.52
Rolling Hills Arabian Horses	2005	NBFD	0179139	\$ 353.17
Snowdon, Van Edward	2005	ELFD/ELSD	0189053	\$ 100.92
Spivey Construction Co. Inc.	2005	DFD/ELSD	0137713	\$ 646.54
Strimpel, Anthony J.	2005	DFD	0149325	\$ 101.64
Vaughn, Robert Stanley Jr.	2004/05	ELFD/ELSD	0152982	\$ 563.07
Winn Dixie Inc. #2051	2003	City	0114967	\$ 181.90
Yianakospolos, David A.	2005	City	0177351	\$ 369.37
			TOTAL	\$ 84,308.17

- Period covered (March 16, 2006 – April 15, 2006)

NAME	YEAR	DIST	A/C NO	AMOUNT
Alexander, Charlie Edgar	2005	ELFD/ELSD	17347	\$ 122.07
Alexander, Nina Blair	2005	DFD	0187821	\$ 106.87
Alexander, Patricia Propst	2005	City	0187880	\$ 153.89
Ari, Lale D.	2005	City	39949	\$ 131.14
Brookshire, Gregory Dale	2005	City	0179691	\$ 132.56
Burton, Kelly Dawn	2005	N-321	0180173	\$ 109.33
Chowdhury, Nazrul Ahsan	2005	City	0187591	\$ 414.53
Davis, Doris Bush	2005	City	0075646	\$ 282.43
Dellinger, Dennis Wayne	2005	Crouse	0077712	\$ 219.21
Dwyer, James Joseph	2005	City	0187675	\$ 283.02
Eller, Wanda Beavers	2005	City	0187839	\$ 138.06
			TOTAL	\$ 2,093.11

NAME	YEAR	DIST	A/C NO	AMOUNT
Burton, Robert Michael	2001-05	N-321	37521	\$ 296.83
Click, Jessie Allen	1997-00	Crouse	0097786	\$ 544.72
Cobra Land Cleaning	2005	DFD/ELSD	0179159	\$ 1,270.50
Cook, Marshall Daniel	2003-05	HCFD	03188	\$ 302.78
Englert, Egon	2005	ELFD/ELSD	0188922	\$ 190.48
			TOTAL	\$ 2,605.31

- Letter of Credit #41
- Letter of Credit #45
- Revised Lake Norman RPO Memorandum of Understanding
- Boger City VFD – Tax Exempt Loan
- Denver Fire Insurance Boundary Lines

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the consent agenda.

Public Comments: Chairman Anderson advised that this was the time the Board of Commissioners would open the floor to receive public comments from citizens regarding any matter they desired to address.

John Gamble spoke concerning the legality of the BFI grant process.

Wayne Avery asked the Board to consider doing a survey like Gaston County sent out to the taxpayers. Chairman Anderson advised that this has been given to the County Manager for review.

Being no additional speakers, Chairman Anderson declared the Public Comments session closed.

Budget Public Hearing: Chairman Anderson opened budget public hearing .

Being no one wishing to speak, declared public hearing closed.

Commissioner Funderburk stated that he would like to go back and review school budget items that were voted down at a budget work session.

A MOTION by Commissioner Funderburk to take teacher supplement to 6.5% of base pay and the technology budget to \$171,000.

Commissioner Patton asked if teachers would be receiving a pay raise this year.

Jim Watson stated that a 7% pay increase is proposed.

Commissioner Moore stated that according to Leon Harmon at the end of June 2006, the Fund balance will go from 15% to 11%. Next year, the fund balance will go down to 9% and the minimum is 8%.

Vote: 2 – 3 AYES: Funderburk, Mitchem
 NOES: Patton, Moore, Anderson

A MOTION by Commissioner Patton to approve the Budget Ordinance FY 2006-2007.

Vote: 4 – 1 AYES: Anderson, Moore, Mitchem, Patton

NOES: Funderburk

A MOTION by Commissioner Mitchem to add \$50,000 for Farmer's Market funding for a permanent site. Vote: 3 – 2 **AYES:** Funderburk, Mitchem, Patton
NOES: Anderson, Moore

Public Hearing – Incentive Grant for Room & Board Corp. – Barry Matherly: Alan Lewis, with Keith Corporation, presented information concerning the incentive grant for Room&Board.

Chairman Anderson opened the Public Hearing concerning the Incentive Grant for Room&Board.

Being no one wishing to speak, Chairman Anderson declared the public hearing closed.

Chairman Anderson stated that incentive grants are given under grant policy and are predicated upon an agreement guaranteeing an investment that will produce a certain number of jobs at guaranteed wages. The grant comes when the firm pays their property tax; they receive a certain amount of the property taxes back. Typically these grants are for 5 years. It is a fairly common practice by county governments trying to capture new industry.

Jeff Taylor stated that the difference in the grants is based on investment.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the Resolution to Adopt Economic Incentive Grant Agreement with Room & Board Corporation.

**RESOLUTION TO ADOPT ECONOMIC INCENTIVE GRANT AGREEMENT
WITH ROOM&BOARD CORPORATION**

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

WHEREAS, Room&Board, Inc. and TKC CXIII, LLC, have developed plans for construction of their new distribution facility in Lincoln County; and

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

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

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, Room&Board, Inc. and TKC CXIII, LLC.

2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.

3. This resolution shall become effective upon adoption.

This 19th day of June, 2006.

Tom Anderson, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the 19th day of June 2006, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"); Room&Board, Inc., a Minnesota company (hereinafter referred to as "Room&Board"); and TKC CXIII, LLC., a North Carolina limited liability company (hereinafter referred to as "TKC").

WITNESSETH:

WHEREAS, Room&Board has developed plans for a new distribution facility in Lincoln County, North Carolina by locating a new distribution facility in the Lincoln County Industrial Park (hereinafter referred to as the "Park"); and

WHEREAS, TKC will purchase certain real property in the Park and will construct a new distribution facility on such property to be occupied by Room&Board under a long-term lease agreement; and

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

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

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

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

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

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

1. On or before December 2006, TKC shall purchase certain real estate identified as Parcel 9 on the Lincoln County Industrial Park master plan and begin construction of a distribution facility on such site for occupancy by Room&Board.
2. Within two years of the date of this agreement, Room&Board and TKC shall make an investment upon such site in building and equipment of \$7,000,000.00, of which \$6,550,000.00 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the date of this agreement, Room&Board shall provide at such site at least 12 new jobs paying average weekly wage of \$400.
4. In consideration of the performance of the aforesaid obligations by Room&Board and TKC, the County will provide cash grants to Room&Board of \$29,966 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to Room&Board within 30 days after Room&Board has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. In the event that the value of the investment actually made by Room&Board pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.
6. Room&Board specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, Room&Board shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and

year first above written.

Room&Board, INC.

By: _____
President

ATTEST:

_____ (Corporate seal)
Secretary TKC CXIII, LLC.

By: _____
Authorized Member

MINNESOTA

_____ COUNTY

This the _____ day of _____, 2006, _____ personally came before me _____ and acknowledged that he/she is Secretary of Room&Board, Inc., a Minnesota corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/her as its Secretary.

Witness my hand and official stamp or seal, this _____ day of _____, 2006.

My Commission Expires: _____

Notary Public

LINCOLN COUNTY

By: _____
Thomas R. Anderson, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

Supplement for Declaration of Covenants, Conditions and Restrictions for the Lincoln County Industrial Park: Alan Lewis, with the Keith Corporation, presented the supplement for Declaration of Covenants, Conditions, and Restrictions for the Lincoln County Industrial Park.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to adopt the Supplement to Declaration of Covenants, Conditions and Restrictions for Lincoln County Industrial Park.

STATE OF NORTH CAROLINA

COUNTY OF LINCOLN

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Supplement"), is made this _____ day of _____, 2006, by and between LINCOLN COUNTY, a body corporate and politic (the "Declarant") and WOODROW SHRUM, widower, A.D. SHRUM and wife, HILDA B. SHRUM, and GERALD W. WILLIAMS and wife, DOROTHY WILLIAMS (collectively, "Shrum").

RECITALS:

WHEREAS, the Declarant is the Declarant under that certain Declaration of Covenants, Conditions and Restrictions recorded on December 22, 2000 in Book 1211 at Page 356 (the "Declaration") in the office of the Register of Deeds of Lincoln County, North Carolina (the "Registry") and attached hereto as Exhibit A and incorporated herein by reference;

WHEREAS, the Founder's Class Membership (as defined in the Declaration) has not terminated;

WHEREAS, Shrum is the owner of those certain parcels of real property located in Lincoln County, North Carolina and more particularly described on Exhibit B attached hereto (the "Shrum Land"); and

WHEREAS, TKC CXIII, LLC, a North Carolina limited liability company ("TKC") anticipates purchasing a portion of the Shrum Land and leasing a part of such parcel to Room & Board, Inc. and reserving the balance of such land it has acquired from Shrum and not leased to Room & Board, Inc. for the expansion of the facilities to be constructed for Room & Board, Inc., in accordance with the lease agreement between TKC and Room & Board, Inc., such balance of the land reserved for the expansion being more particularly described on Exhibit C attached hereto (the "Expansion Land"); and

WHEREAS, Declarant and Shrum desire to subject the Shrum Land and the Expansion Land to the Declaration, subject to the terms and provisions set forth herein.

NOW, THEREFORE, in consideration thereof and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant and Shrum hereby agree as follows:

1. The Shrum Land is hereby made subject to the Declaration (and all amendments or supplementary declarations thereto) in all respects (except as provided herein) and are a part of the Property (as defined in the Declaration). Shrum represents and warrants that, as of the date of time of recording of this Supplement, the Shrum Land is not subject to any unsatisfied mortgages or deeds of trust.

2. With respect to the Expansion Land, Declarant hereby waives its rights to repurchase all or any portion of the Expansion Land arising under Section 1 of Article XIV of the Declaration.
3. As of the date hereof, neither TKC XXXV, LLC nor TKC CXIII, LLC are Exempt Owners (as defined in Section 8 of Article VII). The Shrum Land shall be exempt from all assessments, special assessments and the liens therefore of every type under the Declaration, except as hereinafter provided. Notwithstanding the foregoing, no assessments, special assessments or liens therefore of any type under the Declaration shall be applicable to the Expansion Land until such time construction of building improvements are completed thereon and a certificate of occupancy is issued for said building improvements. Pursuant to the Declaration, upon the transfer and development of all or any portion of the Shrum Land, the portion transferred shall no longer be exempt from assessments, special assessments and the liens therefore under the Declaration.
4. This Supplement shall be governed by the laws of the State of North Carolina. This Supplement represents the entire agreement of the undersigned as to the matters set forth herein and may not be amended orally. All the rights, covenants, terms, agreements, and conditions set forth in this Supplement are intended to be and shall be construed as running with the land, binding upon, inuring to the benefit of and enforceable by the parties hereto and their successors and assigns in title.

In WITNESS WHEREOF, the Declarant has executed this Supplement as of the date set forth above.

LINCOLN COUNTY, a body corporate and politic

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF LINCOLN

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally came before me and acknowledged that he is the _____ of Lincoln County, a body corporate and politic, and that, by authority duly given and as the act of the County, he acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2006.

[NOTARIAL SEAL]

Notary Public

My Commission expires _____

WOODROW SHRUM

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that Woodrow Shrum personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this _____ day of _____, 2006.

Print Name: _____
Notary Public

My Commission Expires: _____
[NOTARY SEAL]

A.D. SHRUM

HILDA B. SHRUM

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that A.D. Shrum and Hilda B. Shrum personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this _____ day of _____, 2006.

Print Name: _____
Notary Public

My Commission Expires: _____
[NOTARY SEAL]

GERALD W. WILLIAMS

DOROTHY WILLIAMS

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that Gerald W. Williams and Dorothy Williams personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this _____ day of _____, 2006.

Print Name: _____
Notary Public

My Commission Expires: _____

[NOTARY SEAL]

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

Zoning Map Amendment #530 - Ronny Carswell, applicant: The Planning Board voted 8-0 to recommend approval of Zoning Map Amendment No. 530, and to adopt the Statement of Consistency and Reasonableness.

Case No.: ZMA 530

Applicant: Ronny Carswell

Parcel ID No: 57281 and 82065

Location: South side of Hwy. 27 about 800 feet of Shoal Road

Proposed

Amendment: Rezone from R-S to B-N.

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: This property is located at the center of an area designated by the Land Use Plan as a rural community center, suitable for small-scale retail, civic and institutional uses serving the local area.

This proposed amendment is reasonable and in the public interest in that: This property is located on a major highway near a main intersection. It is adjoined by property zoned business. County water is available at this location.

UPON MOTION by *Commissioner Funderburk*, the Board voted unanimously to accept the Planning Board's recommendations and their Statement of Consistency and Reasonableness as it pertains to Zoning Map Amendment No. 530 – Ronny Carswell, applicant.

Conditional Use Permit #201A - Gary Dellinger, applicant: The Planning Board voted 8-0 to recommend approval of Conditional Use Permit No. 201A, and to recommend approval of the Statement of Consistency and Reasonableness and Findings of Fact as a whole.

Commissioner Moore asked about environmental issues like those discussed with another case involving a concrete plant.

Randy stated that the concrete is not made there

Chairman Anderson stated that products are made at this location with concrete.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the Conditional Use Permit, findings of fact, and statement of consistency and reasonableness.

FINDINGS OF FACT

1. The use will not materially endanger the public health and safety if located where proposed and developed according to plan. YES X NO _____

Factual reason cited: Existing business already established.

2. The use meets all required conditions and specifications. YES X NO _____

Factual reason cited: Based on staff's obligation to see that all conditions and specifications are met.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO _____

Factual reason cited: It is surrounded by other industries.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES X NO _____

Factual reason cited: It is in an area where industry is supposed to be.

PCUR #134 - Ronny Carswell, applicant: The Planning Board voted 8-0 to recommend approval with the following conditions:

- 1) That any road improvements required by NCDOT be the responsibility of the developer.
- 2) That the density of the development be reduced to no more than 86 lots.
- 3) That a new concept plan be prepared and presented at the BOC meeting on June 19.

Chairman Anderson asked if there will be another entrance for the subdivision. Randy Hawkins stated that there will be a 2nd entrance.

Case No.: PCUR #134

Applicant: Ronny Carswell

Parcel ID No: 13254, 13255, 13326, 78546, 78548 and 81859

Location: North side of Reepsville Road near Wise Road

Proposed

Amendment: Rezone from R-S to CU P-R to permit the development of 86 lots for single-family homes.

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: This property is located in an area designated by the Land Use Plan as a rural community center, suitable for concentrating primarily residential development.

This proposed amendment is reasonable and in the public interest in that: This will be an extension of an existing subdivision. This property is surrounded by property zoned residential. County water is available at this location.

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

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve Parallel Condition Use Rezoning #134, to accept the Statement of Consistency and Reasonableness, to accept the Findings of Fact as a whole, with the conditions submitted by the Planning Board in connection with this matter.

FINDINGS OF FACT

1. The use will not materially endanger the public health and safety if located where proposed and developed according to plan. YES X NO _____

Factual reason cited: Lower density (than originally proposed).

2. The use meets all required conditions and specifications. YES X NO _____

Factual reason cited: Meets all required conditions and specifications, will be reviewed by NCDOT and any required road improvements will be provided.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO _____

Factual reason cited: In harmony with surrounding land, which is zoned residential.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES X NO _____

Factual reason cited: Will be in harmony and in general conformity with the Land Use Plan; expansion of existing subdivision.

Parallel Conditional Use Request #135 - Aston Properties Inc., applicant: The Planning Board voted 7-1 to recommend approval with the following conditions:

- 1) That the developer be responsible for any road improvements required by NCDOT on Hwy. 73
- 2) That the developer contribute \$75,000 toward the Moving Ahead project upon the issuance of a driveway permit.

Case No.: PCUR #135

Applicant: Aston Properties Inc.

Parcel ID No: 34193, 34193 and 50188

Location: North side of Hwy. 73 about 1,200 feet west of Hwy. 16

Proposed

Amendment: Rezone from R-T and B-G to CU B-G to permit the development of a retail center with 87,000 square feet of space and four outparcels

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: This property is located in an area designated by the Land Use Plan as an employment and commercial center, suitable for concentrating regional-scale non-residential development.

This proposed amendment is reasonable and in the public interest in that: This property is located on a major highway near another major highway, and near a four-lane highway that's under construction. Adjoining properties are zoned business. Water and sewer service is available.

Commissioner Moore stated that she is concerned about traffic and would like to see this tabled until DOT will clarify when traffic improvements will be made.

Randy Hawkins stated that Walmart cannot open until the improvements have been made. Because Lowe's site plan shows a section of the 5-lane highway in front of their store, they cannot open until the road is completed. This is also the case with Aston properties.

A MOTION by Commissioner Moore to table this for 6 months.

Commissioner Patton stated that they cannot open until the improvements are completed.

Chairman Anderson stated that he has talked to Ms. Jackie McSwain and Mike Holder. The Moving Ahead funds are secure. There is going to be about a year that it will be unpleasant trying to get through that intersection, but he is sufficiently convinced that this will be handled by professionals that know what they are doing. He stated that he does not think a 6 month delay in this project will gain what Commissioner Moore is seeking.

Vote: 1 – 4 AYES: Moore

NOES: Funderburk, Mitchem, Anderson, Patton

A MOTION by Commissioner Mitchem to approve rezoning this property.

Vote: 4 – 1 AYES: Funderburk, Mitchem, Anderson, Patton

NOES: Moore

The Board proceeded to go through the findings of fact individually.

FINDINGS OF FACT

1. The use will not materially endanger the public health and safety if located where proposed and developed according to plan. YES X NO _____

Factual reason cited: It is very small portion of development planned in that area, will not endanger the public health or safety.

A MOTION by Commissioner Patton to approve finding 1 based on factual reasons cited. Vote: 4 – 1 AYES: Funderburk, Mitchem, Anderson, Patton
NOES: Moore

2. The use meets all required conditions and specifications. YES X NO _____

Factual reason cited: Meets all required conditions and specifications.

A MOTION by Commissioner Funderburk to approve finding 2 based on factual reasons cited. Vote: 4 – 1 AYES: Funderburk, Mitchem, Anderson, Patton
NOES: Moore

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO _____

Factual reason cited: Will not interfere with adjoining properties.

A MOTION by Commissioner Mitchem to approve finding 3 based on factual reasons cited. Vote: 4 – 1 AYES: Funderburk, Mitchem, Anderson, Patton
NOES: Moore

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

YES X NO _____

Factual reason cited: Is in accordance with Land Use Plan.

A MOTION by Commissioner Patton to approve finding 4 based on factual reasons cited. Vote: 4 – 1 AYES: Funderburk, Mitchem, Anderson, Patton
NOES: Moore

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Condition 1 as follows: That the developer be responsible for any road improvements required by NCDOT on Hwy. 73

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Condition 2 as follows: That the developer contribute \$75,000 toward the Moving Ahead project upon the issuance of a driveway permit.

UPON MOTION by Commissioner Funderburk, the Board voted 4 -1 (Moore against) to approve Parallel Conditional Use Rezoning #135 and to accept the Statement of Consistency and Reasonableness.

Zoning Text Amendment #529 - Lincoln County, applicant: A proposal to amend Section 13.8 of the Lincoln County Zoning Ordinance to allow businesses to display a temporary sign without a permit, provided such sign does not exceed 8 square feet in sign area and 5 feet in height.

The Planning Board voted 6-0 (on 5-1-06) to table proposal until the June 5 meeting.

The Planning Board voted 6-2 to recommend disapproval at the June 5 meeting.

Due to an oversight by staff, the Planning Board did not adopt a Statement of Consistency and Reasonableness for this proposed amendment. The Board of Commissioners will need to adopt a statement before rejecting or adopting this amendment.

Currently no portable signs are allowed unless they were there before the Zoning Ordinance. Popcicle signs are considered portable signs, because they can be moved from location to location. This amendment would allow for one sign either popcicle or an a-frame sign on the business property. There is an allowance for temporary signs for real estate.

Commissioner Moore stated that this weakens the ordinance that is in place.

Randy Hawkins stated that concerns were voiced by Planning Board members that this would loosen the ordinance.

Chairman Anderson read a letter from the Chamber of Commerce opposing modification of the ordinance.

A MOTION by Commissioner Moore to accept the Planning Board's recommendation and reject ZTA No. 529. VOTE: 2 – 3 AYES: Anderson, Moore
NOES: Funderburk, Patton, Mitchem

A MOTION by Commissioner Patton to approve ZTA 529.
VOTE: 3 – 2 AYES: Patton, Funderburk, Mitchem
NOES: Anderson, Moore

A MOTION by Commissioner Patton to approve the Statement of Consistency and Reasonableness.

VOTE: 3 – 2 AYES: Patton, Funderburk, Mitchem
NOES: Anderson, Moore

Case No.: ZTA #529
Applicant: Lincoln County
Parcel ID No: n/a
Location: n/a
Proposed

Amendment: Amend Section 13.8 of the Lincoln County Zoning Ordinance to allow businesses to display a temporary sign without a permit, provided such sign does not exceed 8 square feet in sign area and 5 feet in height

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: Goal 2 of the Land Use Plan calls for simplifying regulations. Goal 3 calls for encouraging commercial development. This proposal will simplify the sign regulations and provide businesses with another way to advertise.

This proposed amendment is reasonable and in the public interest in that: Businesses will be allowed a means of advertising similar to what's allowed for religious, charitable, civic and fraternal organizations. The limitation on the number and size of temporary signs will protect the appearance of business areas.

Zoning Text Amendment #520 - Lincoln County, applicant: A proposal to amend Sections 13.8, 13.13.3, 7.8 and 2.4 of the Lincoln County Zoning Ordinance to require a permit for advertising (off-premise) signs which do not exceed 32 square feet in area and allow them only in business and industrial districts and only if they are spaced at least 1,000 feet apart from any other advertising sign; to require that nonconforming signs (excluding off-premise advertising signs) be altered to comply with the ordinance or be removed within one year of a notice of nonconformity; and to define "portable sign" as "any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground."

Planning Board voted 7 – 0 (on 3/6/06) to recommend approval.

BOC voted (on 3/20/06) to return proposal to Planning Board to redraft so that businesses can display on-premise signs to advertise daily specials.

Commissioner Patton made a motion to accept ZTA 520.

A MOTION by Commissioner Patton to adopt ZTA 520 as presented

Vote: 3 - 2 AYES: Anderson, Moore, Patton
NOES: Mitchem, Funderburk

A MOTION by Commissioner Patton to approve the statement of consistency and reasonableness

Vote: 3 – 2 AYES: Anderson, Moore, Patton
NOES: Mitchem, Funderburk

Classification and Pay Plan Study – Audrey Setzer: Audrey Setzer presented a summary of the proposals to conduct a Classification and Pay Plan Study for Lincoln County.

Ms. Setzer presented quotes from Centralina Council of Governments, Condrey & Associates, and Springsted, Incorporated.

Company	Proposal	Time Line
Centralina Council of Governments	Estimated cost \$51,070 Will be billed for actual cost	14 weeks
	Less 30 membership hours If matched by paid hours Reducing cost to \$47,350	
	Performance evaluation \$7,000 estimated	
Condrey & Associates Inc.	Fixed cost \$49,500 Includes performance evaluation *Includes all expenses plus 1-year technical follow-up service	16 weeks
Springsted, Incorporated	Proposal cost \$49,700	16 weeks
	Expenses not to exceed \$4,000 Performance evaluation \$12,000	

Chairman Anderson stated that this group also did the study for the City of Lincolnton.

UPON MOTION by Commissioner Patton, the Board voted unanimously to hire Condrey & Associates, Inc. to do the Proposed Classification and Pay Plan Study.

Strategic Plan for Fire and Emergency Services – Steve Allan: Steve Allan presented the Strategic Plan for Fire and Emergency Services.

Capital Project Report – Steve Gilbert: Steve Gilbert presented the Capital Projects Report which included the following: Hwy. 73 and Airport Road Water Line Extension; Industrial Park Wastewater Facilities; Westport Water Line Replacement; Campco Engineering; S&ME, Inc; W.K. Dickson.

Finance Officer's Report – Leon Harmon: Leon Harmon presented the budget performance report for May 2006.

County Manager's Report – Stan Kiser: Stan Kiser presented the County Manager's Report.

County Commissioners' Report: Commissioner Moore presented a Resolution that Jeff Taylor drafted for the Board's consideration.

**RESOLUTION TO CREATE FIRE PROTECTION DISTRICT
COMMISSION FOR EAST LINCOLN FIRE DISTRICT**

WHEREAS, the Lincoln County Board of Commissioners has received a number of inquiries and complaints from citizens concerning the operations of the East Lincoln Volunteer Fire Department; and

WHEREAS, the Board of Commissioners is concerned about the accountability of the East Lincoln Volunteer Fire Department for the funds it receives from the fire district tax levied by the Board on the residents of its district; and

WHEREAS, Section 69-25.7 of the North Carolina General Statutes authorizes the Board of Commissioners to create a fire protection district commission of three qualified voters to administer the special fund provided by the fire district tax; and

WHEREAS, the Board believes that the creation of such a commission will help to provide additional supervision and accountability in connection with the expenditure of fire district tax proceeds in the East Lincoln Fire District;

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

1. That pursuant to N.C.G.S. Section 69-25.7, the Lincoln County Board of Commissioners hereby creates and establishes the East Lincoln Fire Protection District Commission to administer the special fund provided by the fire tax in such district.

2. That, as provided in such statute, the Commission shall consist of three qualified voters of the district, who shall be appointed by the Board of Commissioners to serve terms of two years each at the discretion of and under the supervision of the Board of Commissioners.

3. That the Board of Commissioners shall promptly appoint the initial members of the East Lincoln Fire Protection District Commission for terms to begin on July 1, 2006.

This 19th day of June, 2006.

LINCOLN COUNTY

By: _____
Thomas R. Anderson, P. E., Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

A MOTION by Commissioner Moore to approve the Resolution to Create Fire Protection District Commission for East Lincoln Fire District.

VOTE: 1 – 4 AYES: Moore
NOES: Anderson, Patton, Funderburk, Mitchem

County Attorney's Report: Jeff Taylor presented the County Attorney's Report.

RESOLUTION TO REQUEST THAT
NORTH CAROLINA GENERAL ASSEMBLY ENACT LAWS
TO REQUIRE BLENDED FUELS TO REDUCE DEPENDENCY ON FOREIGN OIL

WHEREAS, rising prices in the world oil markets have caused corresponding increases in gasoline prices across North Carolina as well as the entire United States; and

WHEREAS, these price increases have put the economic well-being of the United States, North Carolina, and Lincoln County at risk; and

WHEREAS, current technology makes it possible to extend gasoline with ethanol and diesel with biomass; and

WHEREAS, production of crops for such products could provide a significant boost to the agricultural economy of the State of North Carolina and Lincoln County, in addition to providing alternatives to reduce dependency on foreign oil; and

WHEREAS, the Caldwell County Board of Commissioners, among others, has petitioned the State of North Carolina to enact laws to require fuel for vehicles to be at least an E-85 blend for gasoline and an E-80 blend for diesel;

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

1. That the Lincoln County Board of Commissioners hereby joins with Caldwell County in requesting that the State of North Carolina, through the North Carolina General Assembly, enact laws to require fuel for vehicles to be at least an E-85 blend for gasoline and a B-80 blend for diesel.

2. That this Board requests that such laws be acted upon in the short session of 2006 due to the extreme importance of the need for this action.

3. That the County Manager shall send a copy of this resolution to all members of the North Carolina General Assembly representing Lincoln County therein.

This 19th day of June, 2006.

LINCOLN COUNTY

By: _____
Thomas R. Anderson, P. E., Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Resolution to Request that North Carolina General Assembly Enact Laws to Require Blended Fuels to Reduce Dependency on Foreign Oil.

Vacancies/Appointments:

Vacancies:

Centralina Workforce Development Board *2
Nursing and Adult Care Home Advisory Committee *4

Appointments:

EDA Board:

- Reappoint Rosalind Welder

Voluntary Ag. District Advisory Board:

- Kenneth Dellinger
- Keith Gilbert

Centralina Workforce Development Board

- Shelly McGraw

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the appointments.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to appoint Chairman Anderson to the County Line Committee.

Calendar: Chairman Anderson presented the July calendar.

Chairman Anderson announced the meeting concerning recreation, which is scheduled for Tuesday, July 18 at 6:30 p.m.

Closed Session: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to enter Closed Session to discuss Personnel, Legal Issues, Martin Oakes Lawsuit, and Contractual Matters that are confidential pursuant to N.C.G.S. 143-318.11.1

Chairman Anderson announced that no action was taken in Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners