

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, AUGUST 18, 2008

The Lincoln County Board of County Commissioners met in regular session on August 18, 2008 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M.

Commissioners Present:

Thomas R. Anderson, PE, Chairman
Alex E. Patton, Vice Chairman
Bruce Carlton
James A. Klein
Marie Moore

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Building and Land Development Director
Randy Hawkins, Zoning Administrator
Susan McCracken, Social Services Director
Elizabeth Snyder, County Ranger
Steve Gilbert, Public Works Director
Barry McKinnon, Sr. Utility Engineer
Leon Harmon, Finance Director

Call to Order: Chairman Anderson called the August 18, 2008 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Reverend Dr. Stanley Spence, First Baptist Church, gave the Invocation. Chairman Anderson led in the Pledge of Allegiance.

Adoption of Agenda: Chairman Anderson presented the agenda for the Board's approval adding items under Other Business pertaining to Convenience Sites, Update on Charter School, and a Closed Session.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda as modified.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
AUGUST 18, 2008

- | | | |
|-----|---------|--|
| | 6:30 PM | Call to Order |
| | 6:31 PM | Invocation – Reverend Dr. Stanley Spence
First Baptist Church |
| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:34 PM | Consent Agenda <ul style="list-style-type: none"> - Approval of Minutes - Requests for Tax Refunds <ul style="list-style-type: none"> - July 14 – 27, 2008 - Sponsored Group Status <ul style="list-style-type: none"> - Salem Baptist Church - Benefit for Crime Stoppers of Lincoln/Lincolnton County - Balsom Ridge Business Park Stormwater Ponds - Crouse VFD – Request for Surplus Vehicle |
| 3. | 6:35 PM | Public Comments |
| 4. | 6:50 PM | Recommendations from Planning Board – Randy Hawkins

CZ #08-1 Brian and Tabitha Mocilan, applicants
CUP #286 Calico Technologies Inc., applicant
CUP #287 Kenneth McCurry, applicant |
| 5. | 7:20 PM | Public Hearing – Order Authorizing \$2,700,000 Public Building Bonds, Order Authorizing \$800,000 Industrial Park Bonds, Order Authorizing \$80,000 Airport Bonds |
| 6. | 7:30 PM | Work First Biennial County Planning – Susan McCracken |
| 7. | 7:40 PM | Division of Forest Resources Report of Accomplishments – Liz Snyder |
| 8. | 7:50 PM | Bids for Recycling – George Wood |
| 9. | 8:00 PM | Drought Update – Steve Gilbert |
| 10. | 8:05 PM | Update on Sewer Plant – Steve Gilbert |
| 11. | 8:10 PM | Capital Project Reports – Steve Gilbert |
| 12. | 8:15 PM | Finance Officer’s Report |

- 13. 8:20 PM County Manager's Report
- 14. 8:25 PM County Commissioners' Report
- 15. 8:30 PM County Attorney's Report
- 16. 8:35 PM Vacancies/Appointments
- 17. 8:40 PM Calendar
- 18. 8:45 PM Other Business

Adjourn

Consent Agenda: UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Consent Agenda.

- Approval of Minutes
- Requests for Tax Refunds
 - July 14 – 27, 2008

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (July 14, 2008-July 27, 2008)

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

NAME	YEAR	DIST	A/C#	AMOUNT
Nissan Infiniti LT	2007	DFD/ELSD	0166655	106.54
			TOTAL	\$106.54

-
- Sponsored Group Status
 - Salem Baptist Church
 - Benefit for Crime Stoppers of Lincolnton/Lincoln County
- Balsom Ridge Business Park Stormwater Ponds
- Crouse VFD – Request for Surplus Vehicle

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

Floyd Foster, representing FTS Transportation, stated that his purpose tonight is to ask that his contract be reinstated. He stated that he is a contract provider and transports patients to doctors and pharmacies. He said he did not receive any notice, written or verbal that his contract was not continued. Mr. Foster said he requested a meeting and was denied, requested to be put on the agenda and was denied. He said he spoke at the July 21 meeting and other residents (his clients) also spoke then. Mr. Foster stated that

since that meeting, he has not received any response from anyone even though he has called county commissioners personally. Mr. Foster questioned the ethics of the situation. He said the County has put him out of business and shut down his service. Mr. Foster read from April 2004 Board of Commissioners minutes concerning Lincoln County's coordinated transportation system. Mr. Foster said he is a disadvantaged business enterprise, minority owned, and economically and socially disadvantaged. He stated that he provided quality service for Lincoln County for five years. He asked the Board to be fair and give him his job back.

George Wood, County Manager, asked if Mr. Foster has received a certified letter from his office.

Mr. Foster said he has not.

Mr. Wood asked for Mr. Foster's address so another copy could be sent out.

Chairman Anderson stated that he would like the record to show that he has a copy of the letter, which was issued by certified mail on August 11 to the address Mr. Foster has given. Mr. Foster was given a copy of the letter in question.

Being no additional speakers, Chairman Anderson declared the public comments section closed.

Recommendation from Planning Board – Randy Hawkins:

Conditional Zoning No. 08-1 – Brian and Tabitha Mocilan, applicants: The Planning Board voted 7-0 to recommend approval with the following condition:

The property owner shall allow connectivity if the adjoining properties are developed commercially.

Mr. Hawkins stated that following the Planning Board's recommendation, there was some discussion about turn lanes and why they were not required. The information gathered is that according to DOT, the figures they use for traffic generation, a 5000 square foot retail complex would generate an estimated 196 daily trips. Assuming that this complex would be open 9 a.m. to 6 p.m., this would work out to an average of 22 trips per hour. Under DOT's standards, the trigger for a deceleration lane is 60 trips per hour.

There was further discussion and the applicant was asked to accept a condition if there was further commercial development in that area and a turn lane required that would serve their development if they would agree to pay a proportionate share of the cost. The applicant did agree to this condition.

Mr. Hawkins said the condition will read as follows:

If a turn lane or turn lanes are required in conjunction with a future project in this area and those turn lanes will also serve this property, the owner of this property shall pay a proportionate share of the cost based on the square footage of this project.

Commissioner Moore stated that this shows as residential in the Comprehensive Land Use Plan. She asked if this would be considered spot zoning. Mr. Hawkins stated that given the other zoning and uses in that area, he would not consider it spot zoning. He said it adjoins on one side property already zoned business, across the road is business and industrial and a few blocks to the south there is some other business zoning.

Commissioner Moore asked if there are businesses already on that side of the road. Mr. Hawkins stated that that there are some businesses about 5 lots to the south.

Commissioner Carlton asked what Building and Land Development recommended. Mr. Hawkins stated that staff recommended against the rezoning based on the Land Use Plan.

A MOTION by Commissioner Klein to accept Conditional Zoning No. 08-1 and the statement of consistency and reasonableness with the condition recommended and with the added condition that the applicant will participate in the cost of a future turn lane should one be required.

Vote 3 – 2 AYES: Klein, Anderson, Patton
 NOES: Carlton, Moore

Zoning Amendment No. CZ #08-1 – Statement of Consistency and Reasonableness

Case No. CZ #08-1
Applicants: Brian and Tabitha Mocilan
Parcel ID#: 02379
Location: Hwy. 16
Proposed
Amendment: Rezone from R-S to CZ B-N to permit a 4,900-square-foot retail/office building

This proposed amendment is inconsistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: The Land Use Plan classifies this area as residential.

This proposed amendment is reasonable and in the public interest in that: This property is adjoined on one side by property zoned business and across the road by property zoned industrial and business. Other properties in this area are zoned business and industrial. Because this is a conditional rezoning request, the use will be limited to retail/office and the property will be developed according to the site plan and the elevations. The plan provides connectivity if the adjoining properties are commercially developed.

Conditional Use Permit No. 286 – Calico Technologies Inc., applicant: The Planning Board voted 7-0 to recommend approval:

FINDINGS OF FACT

Application #: CUP #286 Date: August 4, 2008
Applicant Name: Calico Technologies Inc.
Applicant Address: P.O. Box 901, Denver NC 28037
Property Location: Balsom Ridge Drive Existing Zoning: I-G
Proposed Conditional Use: Metal-coating facility

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES ___7-0___ NO _____
FACTUAL REASON CITED: Based on testimony, operation of existing building.
2. The use meets all required conditions and specifications. YES___7-0___ NO _____
FACTUAL REASON CITED: Does meet all required conditions and specifications.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES ___7-0___ NO _____
FACTUAL REASON CITED: Given the location in an industrial park.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES ___7-0___ NO _____
FACTUAL REASON CITED: Findings 1, 2 and 3.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Findings of Fact for Conditional Use Permit No. 286 – Calico Technologies Inc., applicant, and to accept the Planning Board’s recommendation to approve Conditional Use Permit No. 286.

Conditional Use Permit No. 287 – Kenneth McCurry, applicant: The Planning Board voted 7-0 to recommend approval with the condition that only new Class B mobile homes be placed on the lots.

FINDINGS OF FACT

Application #: CUP #287 Date: August 4, 2008
Applicant Name: Kenneth McCurry
Applicant Address: 735 Wise Road, Lincolnton NC 28092
Property Location: Old Lincolnton-Crouse Road Existing Zoning: R-S
Proposed Conditional Use: Class B (doublewide) mobile homes

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES ___7-0___ NO _____
FACTUAL REASON CITED: Will not endanger the public health or safety.

2. The use meets all required conditions and specifications. YES___7-0___ NO _____
FACTUAL REASON CITED: Meets all required conditions and specifications or will before mobile homes are put there.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES ___7-0___ NO _____
FACTUAL REASON CITED: Adjoining properties have Class B doublewides.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES ___7-0___ NO _____
FACTUAL REASON CITED: Based on staff's recommendation and adjoining doublewides.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Findings of Fact, in addition to the condition, for Conditional Use Permit No. 287 – Kenneth McCurry, applicant.

Public Hearing – Order Authorizing \$2,700,000 Public Building Bonds, Order Authorizing \$800,000 Industrial Park Bonds, Order Authorizing \$80,000 Airport Bonds: Chairman Anderson opened the public hearing. Being no one wishing to speak, Chairman Anderson declared the public hearing closed.

The Chairman announced that this was the date and hour fixed by the Board of Commissioners for the public hearing upon the orders entitled: “ORDER AUTHORIZING \$2,700,000 PUBLIC BUILDING BONDS”, “ORDER AUTHORIZING \$800,000 INDUSTRIAL PARK BONDS”, “ORDER AUTHORIZING \$620,000 LAW ENFORCEMENT FACILITIES BONDS”, and “ORDER AUTHORIZING \$80,000 AIRPORT BONDS” and that the Board of Commissioners would immediately hear anyone who might wish to be heard on the questions of the validity of said orders or the advisability of issuing said bonds.

No one appeared, either in person or by attorney, to be heard on the questions of the validity of said orders or the advisability of issuing said bonds and the Clerk to the Board of Commissioners announced that no written statement relating to said questions had been received.

The Chairman then announced the public hearing was closed.

Thereupon, upon motion of Commissioner Patton seconded by Commissioner Klein, the order introduced on August 4, 2008 entitled: “ORDER AUTHORIZING \$2,700,000 PUBLIC BUILDING BONDS” was read a second time by title and placed upon its adoption. The vote upon the adoption of said order was:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.
Noes: none.

Thereupon, upon motion of Commissioner Carlton seconded by Commissioner Klein, the order introduced on August 4, 2008 entitled: “ORDER AUTHORIZING \$800,000 INDUSTRIAL PARK BONDS” was read a second time by title and placed upon its adoption. The vote upon the adoption of said order was:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.
Noes: none.

Thereupon, upon motion of Commissioner Carlton seconded by Commissioner Moore, the order introduced on August 4, 2008 entitled: "ORDER AUTHORIZING \$620,000 LAW ENFORCEMENT FACILITIES BONDS" was read a second time by title and placed upon its adoption. The vote upon the adoption of said order was:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.

Noes: none.

Thereupon, upon motion of Commissioner Patton seconded by Commissioner Klein, the order introduced on August 4, 2008 entitled: "ORDER AUTHORIZING \$80,000 AIRPORT BONDS" was read a second time by title and placed upon its adoption. The vote upon the adoption of said order was:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.

Noes: none.

The Clerk to the Board of Commissioners was thereupon directed to publish said orders, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Lincoln Times-News.

Work First Biennial County Planning – Susan McCracken: Susan McCracken, DSS Director, asked for support to remain an electing county. She said they were selected nine years ago to do this program and have been successful. Ms. McCracken stated that there is risk with this plan, but they have eliminated some of the risk by developing a successful plan, serving families they are mandated to serve, helping them find employment, and getting them back to work. She said they then apply these savings to other plans. She stated that she believes DSS can continue to be successful as an electing county and asked for the Board's support.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the recommendation to remain an Electing County.

Bids for Recycling – George Wood: George Wood stated that an RFQ was sent out, but no bids were submitted. He recommended rebidding the project.

It was the consensus of the Board to instruct the County Manager to rebid the project.

Drought Update – Steve Gilbert: Steve Gilbert gave a drought update saying there have been no significant changes and no recommendations for changes in the restrictions.

Update on Sewer Plant – Steve Gilbert: Steve Gilbert gave an update on the sewer plant saying the review on the wastewater plant should take about two weeks, the review on the sewer line work and pump stations will take two or three weeks. They are expecting comments back by the first week in September.

Commissioner Patton asked about odor control at pump stations.

Mr. Gilbert stated that the odor control devices have been installed.

Commissioner Patton stated that he has been made aware that the fire departments are getting calls about natural gas leaks. When they go out, it is the pump stations that people think is a natural gas leak.

Capital Project Reports – Steve Gilbert: Steve Gilbert presented the Capital Project Reports.

Finance Officer’s Report: Leon Harmon presented the Finance Officer’s Report.

County Manager’s Report: George Wood stated that they are currently working on a lease for the lake property for public safety with Duke Power Company. There are currently 3 leases there now, with the Sheriff’s Department, Lincoln County Lifesaving Crew, and the Beatties Ford Park. He stated that the lease will be in the name of Lincoln County.

Mr. Wood stated that he spoke with Alexis Volunteer Fire Department and there will be no cuts in staff.

Mr. Wood said that there will be a presentation of the finalized plans for the Animal Shelter before it goes to bids. He stated that he would also like to go over the Animal Control Ordinance and organization at that point.

Mr. Wood said that they are working on a water and sewer contract with Catawba County and an agreement will be presented at a future meeting.

Mr. Wood stated that there have been issues with contractors on line work. He said that they would like to go through a prequalification process before doing bids for the new sewer plant. Dennis Williams will also recommend this for the Animal Shelter bids.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to authorize a prequalification check for the sewer plant and the animal shelter project.

Mr. Wood stated that he had a meeting with staff concerning emergency responses to sewer spill. He stated that they have worked out a way to improve response by using reverse 911, door hangers, and posting of the lake. They will no longer wait until the Health Department does an analysis.

Mr. Wood stated that he sent out a memo concerning the contingency amount set aside for the schools. The schools will need \$115,912 of the contingency to meet costs. He asked if the Board would like a budget amendment prepared for the next meeting.

Mr. Wood asked the Board to reinstate the Library Assistant position at the Shanklin Library. This position was cut in the budget to provide the contingency money for the schools. The position would not be filled until October 1 so the total amount would be \$25,586.

Mr. Wood stated that he sent the Board memos on the patrol vehicles for the Sheriff’s Department and the Fire/rescue boat.

Mr. Wood presented a spreadsheet concerning the vehicles for the Sheriff's Department. He stated that in the budget, 18 replacement vehicles were included. He said that he took an average to get this number instead of using a detailed analysis like he typically does. The Sheriff had a concern that he felt like there were more than 18 vehicles with over 100,000 miles. Mr. Wood stated that he came up with a replacement schedule. Mr. Wood said that originally \$458,400 was budgeted and they will need \$132,900 more in order to handle the increase. Mr. Wood suggested entering into a loan for \$140,000 over a 3 year period at about 4% per year.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the purchase of additional vehicles for the Sheriff's Department.

A MOTION by Commissioner Moore to table the discussion on a fire boat until the first meeting in September.

Commissioner Klein asked if Commissioner Moore would be willing to add to her motion a provision that a recommendation be received from the Lake Norman Marine Commission on this matter. Commissioner Moore added this to her motion.

Commissioner Patton asked how the Lake Norman Marine Commission became experts on fighting fires on Lake Norman. He stated that we should value the opinions of our fire departments and rescue squads on this matter.

Chairman Anderson stated that he agrees with Commissioner Patton and does not think the Lake Norman Marine Commission's input will be that helpful here. He stated that this is a matter of public safety and we have people to advise us on that. He said if we can get their comments by September 8, it will be fine to hear the comments but he does not think we need to hold up the discussion.

Commissioner Moore withdrew the provision that a recommendation be received from the LNMC.

Vote: Unanimously approved.

Division of Forest Resources Report of Accomplishments – Liz Snyder: Liz Snyder gave a report from the Division of Forest Resources.

County Attorney's Report: Jeff Taylor presented the County Attorney's Report. He stated that they closed on the Rock Springs property July 31. He thanked the Catawba Lands Conservancy and their Executive Director Dave Cable. He stated that they put a lot of time and effort into this.

Vacancies/Appointments: **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the appointment of Abbie Jane Royster to the Library Board to replace Beverly Gantt as Northbrook Representative.

UPON MOTION by Commissioner Klein, the Board voted unanimously to reappoint Reginald Lanier to the Airport Authority.

UPON MOTION by Commissioner Klein, the Board voted unanimously to reappoint Alex Patton to the Peer Review Committee.

Commissioner Klein stated that there was a discussion at the last meeting concerning the FFEA appointment. He stated that they are waiting from information back from that board.

Calendar: Chairman Anderson presented the September 2008 calendar.

Other Business:

Commissioner Patton stated that he continues to get phone calls about people having to waste gas driving to certain convenience sites or the landfill for debris when there are empty containers at each site. He stated that these containers should be relabeled to allow this waste to be accepted.

Mr. Wood stated that he has spoken with Commissioner Patton about this. He said originally, they thought site work would be needed to add additional containers, but have since determined that no work is necessary. Originally, the containers were labeled at the 3 convenience sites that were open Saturday and Sunday to accept this debris.. This would be for the other 3 sites.

It was the consensus of the Board to allow relabeling bins at all the convenience sites to allow waste wood.

Commissioner Carlton stated that at the last meeting, the Board discussed a letter being sent to the Charter School concerning the lack of a right turnlane southbound on Highway 16. He stated that he thought this letter would be sent, but apparently this must be done as a motion.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to write a letter to the Charter School, copying Mr. Vinroot, DOT and Mr. Knox, expressing the Board's displeasure with the lack of a right turn lane southbound on Highway 16.

Commissioner Klein stated that he has heard that one property owner has not agreed to sign the agreement. He stated that no work was going on yet.

Mr. Wood stated that this property is not necessary. They are currently waiting on title insurance and the amended plans have recently been approved by DOT.

Commissioner Carlton stated that earlier in the meeting, Building and Land reported that as long as there are only 60 cars per hour, there is no need for a right turn lane. He stated that he believes this exceeds this and is curious as to how they can have this designation and it does not apply to this.

Closed Session: UPON MOTION by Commissioner Carlton, the Board voted unanimously to enter closed session pursuant to N.C.G.S 143-318.11

- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

No action was reported from Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners