

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 5, 2012

The Lincoln County Board of County Commissioners met November 5, 2012 at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman
George Arena, Vice Chair
Carrol D. Mitchem
James A. Klein
Carl E. Robinson, Jr.

Others Present:

Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board

Planning Board Members:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Cathy Davis, Secretary
John Anderson
Tom Campbell
Keith Johnson
Dr. Crystal Mitchem
Dr. Richard Pence

Call to Order: Chairman Patton called the November 5, 2012 meeting of the Lincoln County Board of Commissioners to order. Commissioner Robinson gave the Invocation and led in the Pledge of Allegiance.

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

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, November 5, 2012
6:30 PM

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

Call to Order

Invocation - Commissioner Robinson

Pledge of Allegiance

1. Adoption of Agenda

2. Consent Agenda

- Tax Requests for Releases - Over \$100
 - September 16 - October 15, 2012
- Tax Requests for Refunds - Over \$100
 - October 1 - 14, 2012
- Surplus Property
- Minutes for Approval:
 - September 10, 2012
 - September 17, 2012
- Sponsored Group Status
 - Lincoln County Concert Association
 - Denver Christmas Parade Fee Waiver Request

3. Zoning Public Hearings - Randy Hawkins

CZ #2012-3 RC Property Group, LLC, applicant (Parcel ID# 77107) A request to rezone a 0.95-acre parcel from R-SF (Residential Single-Family) to CZ B-N (Conditional Zoning Neighborhood Business) to permit an existing house to be used as an office. The property is located at 6608 Campground Road, on the east side of Campground Road about 650 feet north of N.C. 16 Business, in Catawba Springs Township.

CUP #320 David McCachern, applicant (Parcel ID# 29845) A request for a conditional use permit to place two accessory structures in the road yard of a residential lot that's adjacent to Lake Norman. The 0.64-acre parcel is located at 7218 Sigmon Peninsula Lane, at the end of Sigmon Peninsula Lane about 400 feet west of Channelview Drive, in Catawba Springs Township.

PCUR #158 Szalem, LLC, applicant (Parcel ID# 02633) A request for a parallel conditional use rezoning of a 0.61-acre lot from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit vehicle and boat service and sales. The property is located at 3840 N. NC 16 Hwy., on the north side of N.C. 16 Business about 700 feet west of Campground Road, in Catawba Springs Township.

PCUR #159 Damon Lusk, applicant (Parcel ID# 32374 and 33798) A request for a parallel conditional use rezoning of 2.4 acres from CU I-G (Conditional Use General Industrial) and B-G (General Business) to CU I-G to permit building material sales. The property is located on the north side of N.C. 16 Business between its intersections with Denver Industrial Park Road in Catawba Springs Township.

WSCUP #14 Damon Lusk, applicant (Parcel ID# 32374 and 33798) A request for a conditional use permit to allow the use of the high-density option in the WS-IV Protected Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 2.4 acres with a 20,500-square-foot office/warehouse, a 10,000-square-

foot warehouse, driveways and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. The property is located on the north side of N.C. 16 Business between its intersections with Denver Industrial Park Road in Catawba Springs Township.

4. Status of Lincoln Comprehensive Transportation Plan as of July 2012 -Linda Dosse from NCDOT Transportation Planning Branch
 5. Lincoln County Farmland Protection Plan and Motion to Adopt Resolution #2012-54: A Resolution to Adopt the Lincoln County Farmland Protection Plan - Rick McSwain
 6. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
 7. Motion to Adopt Ordinance #2012-25: Ordinance Amending the Lincoln County Emergency Management Ordinance - Martha Lide
 8. Motion to Adopt Ordinance #2012-26: An Amendment Ordinance to Regulate and Establish Penalties for False Alarms in Lincoln County - Martha Lide
 9. Ordinance #2012-24: An Ordinance Amending Chapter 30 of the Lincoln County Code of Ordinances Dealing with Concealed Firearms on County Property
 10. NCACC Board Meeting Highlights - Commissioner Klein
 11. Other Business
- Adjourn

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

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

- Tax Requests for Releases - Over \$100
 - September 16 - October 15, 2012
- Tax Requests for Refunds - Over \$100
 - October 1 - 14, 2012
- Surplus Property
- Minutes for Approval:
 - September 10, 2012
- Sponsored Group Status
 - Lincoln County Concert Association
- Denver Christmas Parade Fee Waiver Request

LINCOLN COUNTY
TAX DEPARTMENT
G.S. #105-381 (B) ALL RELEASES MORE THAN \$100
AND #105-325 INCLUDING (A) (6)
REQUEST FOR RELEASES

PERIOD COVERED
 (September 16, 2012 - October 15, 2012)

NAME	YEAR	A/C NO	AMOUNT
Duke Energy Corp.	2012	0139195	\$11,912.32
Duke Energy Corp.	2012	0139195	\$18,718.87
Fontanella, Baran E	2012	0241880	\$378.21
Howard, Rodney G	2012	0142180	\$173.57
Rappe, John A	2012	0233358	\$349.12
Thompson, Teresa Heirs of	2011- 2012	38584	\$121.69
Transcontinental Pipeline Co.	2012	0169449	\$176.91
Transcontinental Pipeline Co.	2012	0169449	\$3,811.51
		TOTAL	\$35,642.20

LINCOLN COUNTY
 TAX DEPARTMENT
 G.S. #105-381 (A) ALL RELEASES MORE THAN \$100
 AND #105-325 INCLUDING (A) (6)
 REQUEST FOR RELEASES
 MOTOR VEHICLE BILLS
 PERIOD COVERED
 (SEP 16, 2012 - OCT 15, 2012)

NAME	YEAR	A/C NO	AMOUNT
Allen, Bennie Joe	2012	0180342	\$131.70
Carlton, Vivian Lu Hua	2012	0241371	\$168.61
Cloer, Terry Wayne	2012	0159707	\$266.34
Finley, Beth Ellen	2012	0204679	\$166.63
Grooms, Nathan Reid	2012	0080641	\$156.56
Hurricane Enterprises Inc	2011	0167189	\$102.98
Hyundai Lease Titling Trust	2012	0216070	\$226.51
Inergy Propane LLC	2012	0220174	\$116.75
Johnson, Lynn Holland	2012	0240745	\$136.99
Lail Electric Service Inc	2011	25362	\$144.58
Lawing, Mark Douglas	2011	0119516	\$260.09
Lindell, Tyra Carriker	2012	0241331	\$175.44
Lopez, Joaquin Enos III	2012	40257	\$146.87
Ludwig. Timothy Patrick	2012	0177827	\$687.78

Moore, Tina Nicole	2012	0240247	\$161.19
NCA of the Carolinas Inc	2012	0223831	\$152.16
Perkins, John Reid Sr	2012	0068658	\$103.11
Pitman, Jonathan Wesley	2012	0241534	\$264.25
Price, Angela Badgett	2012	0180222	\$130.60
Robinson, Bryan David	2012	0242271	\$243.18
Robinson, Clifford	2012	0241582	\$167.68
Ross, Lakita Patterson	2012	0241403	\$109.55
S & S Contracting	2012	0233813	\$276.26
Salazar, Orlando	2010	0226620	\$147.81
Schiavarelli, John Joseph	2011	0219122	\$195.77
South East Group PA	2012	0221410	\$433.47
Taylor, Andy Ray	2012	0088935	\$128.35
Whitbeck, Susan Diane	2011	0229886	\$106.66
Wieland, David W	2012	0168862	\$125.35
Williams, Daniel Bryan	2011	0200172	\$141.74
Withers, Chad Lee	2012	0238127	\$446.41
Withers, Larry Elliott	2012	0137025	\$102.47
		TOTAL	\$6,323.84

LINCOLN COUNTY TAX DEPARTMENT
REQUEST FOR REFUNDS
MOTOR VEHICLES
PERIOD COVERED (OCTOBER 1, 2012 - OCTOBER 14, 2012)
G.S. # 105-381(B) ALL REFUNDS OVER \$100.00
(AND) # 105-325 INCLUDING (A) (6)

NAME	YEAR	DISTRICT	A/C #	AMOUNT	REASON
SOUTH EAST GROUP, P. A.	2011-2012	BCFD	0196446	\$205.53	DISTRICT CORRECTION
TOTAL				\$205.53	

Zoning Public Hearings: Randy Hawkins presented the following:

CZ #2012-3 RC Property Group, LLC, applicant

The applicant is requesting the rezoning of a 0.95-acre lot from R-SF (Residential

Single-Family) to CZ B-N (Conditional Zoning Neighborhood Business) to permit an existing house to be used as an office. If the request is approved, the use of the property would be subject to the approved site plan and any conditions mutually approved by the county and the applicant.

The property is located at 6608 Campground Road, on the east side of Campground Road about 650 feet north of N.C. 16 Business. It is adjoined by property zoned R-SF and CZ B-N. Land uses in this area include residential and business. This property is part of an area identified by the NC 16 Corridor Vision Plan as the “Downtown Denver” community center, a service area for surrounding neighborhoods.

Chairman Patton opened the public hearing concerning CZ #2012-3 RC Property Group, LLC, applicant.

Ronnie Caldwell, applicant, stated that he renovated an older home in Denver for his office. This home is beside it and was in array. He purchased the property to renovate it and are cleaning it up to turn it into a nice office.

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

CUP #320 David McCachern, applicant

The applicant is requesting a conditional use permit to locate two accessory structures in the road yard of a residential lot that’s adjacent to Lake Norman. Under Section 4.6.2.C.2(a) of the Unified Development Ordinance, on lots less than one acre in size, accessory structures cannot be located in the road yard (the area between the edge of the road right-of-way and the front building line of the principal structure), except on lots that abut the lake where a conditional use permit is approved.

SITE AREA AND DESCRIPTION

The 0.64-acre parcel is located at 7218 Sigmon Peninsula Lane, at the end of Sigmon Peninsula Lane, about 400 feet west of Channelview Drive. It is zoned R-SF (Residential Single-Family) and is adjoined by property zoned R-SF and by Lake Norman. Land uses in this area are predominately residential. This property is part of an area designated by the Lincoln County Land Use Plan as Suburban Residential.

Chairman Patton opened the public hearing concerning CUP #320 – David McCachern, applicant.

David McCachern, applicant, stated that this is the only yard where they can locate a structure and be within the regulations. He said his property is at the end of a long gravel drive and he is the only one who can see the structure. He said the structure will be made from the same material as his house.

Being no additional speakers, Chairman Patton declared the public hearing closed.

PCUR #158 Szalem, LLC, applicant

The applicant is requesting a parallel conditional use rezoning to rezone a 0.6-acre lot from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit vehicle and boat service and sales. Vehicle and boat service and sales are conditional uses in the Eastern Lincoln Development District, vehicle and boat sales are conditional uses in the B-G district, and vehicle and boat service are permitted uses in the B-G district. If this request is approved, the use of the property would be subject to the approved site plan and any conditions mutually approved by the county and the applicant.

The 0.6-acre parcel is located at 3840 N. NC 16 Hwy., on the north side of N.C. 16 Business about 700 feet west of Campground Road, in Catawba Springs Township. This property is the former location of the Denver Fire Department and contains two buildings. It is adjoined by property zoned B-G, B-N and R-SF (Residential Single-Family). Land uses in this area include business, residential and institutional. The NC 16 Corridor Vision Plan identifies this area as the "Downtown" Denver community center, a service area for the neighborhoods in the surrounding area.

Mr. Hawkins stated that the applicant has applied to NCDOT for a driveway permit.

David Jaroszewski stated that there will be an island to restrict ingress and egress and he is working with NCDOT on this.

Clarence Race stated that the driveway will be in the front and there will be a berm. He said they will clean the place up and put trees there. He said they will run a good, clean business.

Rudy Bauer stated that he doesn't know who will win the race between sweepstakes, boat places, or used car lots on Highway 16. He said they need to bring business in, but not another boat and service area.

Clayton Austin stated that he is behind Denver Methodist Church. He asked what type aesthetics there will be on that side of the lot. He said there are already problems with the church and ballfield.

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

PCUR #159 Damon Lusk, applicant

The applicant is requesting a parallel conditional use rezoning of 2.4 acres from CU I-G (Conditional Use General Industrial) and B-G (General Business) to CU I-G to permit building material sales. The request involves two lots, one of which was rezoned in May from B-G to CU I-G to permit an office/warehouse for building material sales. The applicant has since acquired an adjoining lot. Under the new rezoning request, the

applicant is seeking approval of a revised plan with two main changes: an additional building for warehousing and different measures for stormwater control. Building material sales is a permitted use by right in the I-G district and a conditional use in the Eastern Lincoln Development District. If this request is approved, the development and use of the property would be subject to the approved site plan and building elevations and any conditions mutually approved by the county and the applicant.

The property is located on the north side of N.C. 16 Business between its intersections with Denver Industrial Park Road in Catawba Springs Township. It is adjoined by property zoned B-G, I-G and B-N (Neighborhood Business). Land uses in this area include industrial, business and residential. This property is part of an area designated by the Lincoln County Land Use Plan as industrial.

This property is located in a WS-IV Protected Area watershed district. Because the proposed project would disturb an acre or more of land and require an erosion control plan, it would be subject to the limits on impervious area established under the watershed regulations for this district: 36% by right, or 70% under the high-density option for the Lake Norman watershed. An impervious area of 65% is proposed for this project. This would require engineered stormwater controls and a watershed conditional use permit. Stormwater plans have been submitted as part of a separate application for a watershed conditional use permit (WSCUP #14).

Chairman Patton opened the public hearing concerning PCUR #159 – Damon Lusk, applicant.

Damon Lusk appeared representing Race City Steel. He said nothing has changed from his standpoint except he has purchased the property next to his. He has spread everything out and it fits a lot better. He said nothing has changed on the traffic flow. Mr. Lusk said the whole infrastructure will be complete before they being construction.

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

WSCUP #14 Damon Lusk, applicant

The applicant is requesting a conditional use permit to allow the use of the high-density option in the WS-IV Protected Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 2.4 acres with a 20,500-square-foot office/warehouse, a 10,000-square-foot warehouse, driveways and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. (Otherwise, in this watershed district, non-residential developments that require an erosion control plan are limited to a built-upon area of 36 percent.)

SITE AREA AND DESCRIPTION

The property is located on the north side of N.C. 16 Business between its intersections with Denver Industrial Park Road in Catawba Springs Township. Under a separate application (PCUR #159), the applicant is requesting the parallel conditional use rezoning of this property from CU I-G (Conditional Use General Industrial) and B-G

(General Business) to CU I-G (Conditional Use General Industrial) to permit building material sales. This property is adjoined by property zoned B-G, I-G and B-N (Neighborhood Business). Land uses in this area include industrial, business and residential. This property is part of an area designated by the Lincoln County Land Use Plan as industrial.

Under the water-supply watershed regulations of the Lincoln County Unified Development Ordinance, the Catawba/Lake Norman Watershed is designated for the use of the high-density option. The option requires the use of stormwater control structures to control and treat the runoff from the first one-inch of rain. The structures must be designed to meet the Best Management Practices (BMP) standards of the N.C. Department of Environment and Natural Resources. In this case, the plans call for two grass-lined swales and two dry ponds located in series.

The regulations require the developer to post a bond or other financial security in an amount not less than 1.25 times the cost of constructing the necessary stormwater control structure. In addition, a binding agreement must be signed, requiring the owner to maintain, repair and, if necessary, reconstruct the structure in accordance with an approved operations and maintenance plan. Once the stormwater control structure have been constructed and inspected, and prior to the release of the financial security, the applicant is required to deposit with the county either cash or a similar approved instrument in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining the structure over a 20-year period, whichever is greater.

Chairman Patton opened the public hearing concerning open concerning WSCUP #14 Damon Lusk, applicant.

Damon Lusk stated that this system with the bigger parcel, now that they can do a different system, the cost is less and the way the system is developed will be a lot nicer and will work better.

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

Status of Lincolnton Comprehensive Transportation Plan as of July 2012 -Linda Dosse from NCDOT Transportation Planning Branch: Linda Dosse presented the following:

Background: The purpose of the upcoming presentations by NCDOT to the Citizens Steering Committee, city and county Planning Board and city and county governing boards is to ensure awareness of the CTP process and status, to show initial ideas for highway improvements, and to provide an opportunity for comments by the City of Lincolnton and Lincoln County. Provided there are no fundamental changes to the documents, they will be presented at a public workshop at Lincolnton City Hall.

You may read more about the CTP status by going to <http://www.ncdot.org/doh/preconstruct/tpb/planning/LincolntonCTP.html>

Comprehensive transportation plans are required by NCGS 136-66.2, and identify multi-modal transportation needs in the study area for the next 30 years. For the Lincolnton CTP, the planning horizon is 2035. The Lincolnton CTP is a joint effort between Lincolnton, Lincoln County, Lake Norman RPO, and NCDOT. The Lincolnton CTP was started in 2010. This plan will replace the current thoroughfare plan which was mutually adopted in 1996 and some areas of the Lincoln County CTP which was mutually adopted in 2006.

Lincolnton CTP steps completed so far are:

- Development of the CTP vision, including conducting a transportation goals and objectives survey.
- Establishment of CTP planning area boundary, roads to be studied, and traffic analysis zones.
- Development, documentation, and validation of a transportation demand model (in TransCAD).
- Analysis of current and future highway deficiencies.
- Drafts of the CTP highway, transit, bicycle, and pedestrian maps have been shared with city and county planning staff and with the city council. Input has been received from city, county, and RPO planning staff, as well as several citizens, at meetings held in the spring and summer of 2012.
- These maps include strategies to address transportation deficiencies, i.e. where to improve or add roads, sidewalks, bicycle accommodations, multi-use trails, and public transportation and rail service.
- Development of draft CTP maps and descriptions of proposed improvements.

Key Changes in Roadway Recommendations: The key changes in the roadway system recommendations outlined in the current city thoroughfare plan/county CTP and the proposed CTP are as follows:

The current thoroughfare plan recommends widening of US Highway 321 to six lanes while the proposed plan recognizes the current four lane cross section as adequate,

The current thoroughfare plan recommends a freeway/outer belt loop north and northwest of the city on new location while the proposed plan creates a connector route using existing roads and minor route extensions,

The proposed CTP includes a recommendation for extension of Roper Road to Maiden Highway while the current thoroughfare plan does not,

The proposed plan recommends changing the proposed cross section of several roads to include a median for safety and mobility purposes. These roads include:

Generals Boulevard/Maiden Highway
NC 27 West
East Main Street between Generals Boulevard and NC 150

Several roads were recommended for major widening projects by the current thoroughfare plan while the proposed plan recommends a minor improvement by widening each to two full 12-foot lanes. Those roads include:

US 321 Business/Gastonia Highway
NC 150/Old Cherryville Highway from NC 27 West to NC 150 Bypass
Buffalo Shoals Road

Salem Church Road
Grove Street

Other changes in the recommended cross section include:

NC 27 East: The current thoroughfare plan recommends four lanes between NC 150 and Mt. Vernon Road. The County's current CTP recommends four lanes from NC 73 to the Gaston County line. The proposed plan recommends three lanes from NC 150 to Asbury Church Road and two lanes from Asbury Church Road to Devine Road.

North Aspen Street: The current thoroughfare plan recommends four lanes from south of Flint Street to US 321 Business while the proposed plan recommends three lanes from Dixon Street to US 321 Business.

The current thoroughfare plan recommends several road extensions that the proposed plan does not carry forward due to lack of feasibility or demand. Those extensions include:

Sigmon Road Extension from Walker Branch Road to Highway 150
Sycamore Street Extensions to Riverside Drive and East Main Street
Water Street Extensions to West Main Street and East Main Street

Next steps:

October 2012:

Present draft CTP to Lincolnton Planning Board, receive comments.

November 2012:

Present draft CTP to Lincoln County Planning Board and County Commission, receive comments.

Present draft CTP to Lincolnton City Council, receive comments.

Conduct public workshop.

December 2012:

Thirty day public comment period.

Address comments and revise CTP maps as needed.

January 2013:

Present recommended CTP to Lincolnton City Council and Lincoln County for adoption.

February 2013

Present recommended CTP to Lake Norman RPO for endorsement.

Spring 2013:

Present recommended CTP to NCDOT Board of Transportation for mutual adoption.

Distribute CTP maps to planning partners.

Finalize draft CTP report and send to planning partners for comments. To participate in the review of the CTP report, please contact Linda Dosse by email at ldosse@ncdot.gov or by telephone at 919-707-0973, or contact Bjorn Hansen by email at bhansen@centralina.org or by telephone at 704-688-6501.

Revise and distribute final CTP report.

Action Requested: Feedback on CTP recommendations and process.

Lincoln County Farmland Protection Plan and Motion to Adopt Resolution #2012-54: A Resolution to Adopt the Lincoln County Farmland Protection Plan - Rick McSwain: Andrew Bryant and Rick McSwain presented the following Resolution for the Board's approval.

Resolution #2012-54:
A RESOLUTION TO ADOPT THE
LINCOLN COUNTY FARMLAND PROTECTION PLAN

WHEREAS, Lincoln County has demonstrated a longtime commitment to farmland preservation; and

WHEREAS, The Board adopted a Voluntary Agricultural District Ordinance in 2002 which established the Voluntary Agricultural District Program and created the Agricultural District Advisory Board; and

WHEREAS, The Voluntary Agricultural District Program has enrolled 414 parcels with over 15,700 acres of land as of July of 2012; and

WHEREAS, The agriculture industry accounts for \$171 million (10%) of economic production and 4,100 jobs (15%); and

WHEREAS, The Lincoln County Farmland Protection Plan, recommended by the Farmland Protection Plan Stakeholders, endorsed by the Lincoln County Voluntary Agricultural District Board, will serve as the strategic plan for local agricultural needs in Lincoln County.

NOW, THEREFORE, BE IT RESOLVED:

That the Lincoln County Board of Commissioners does hereby adopt a countywide Farmland Protection Plan, and commends the Plan to the North Carolina Department of Agriculture.

This the 5th day of November 2012.

Alex E. Patton, Chair
Lincoln County Board of Commissioners

Attest

Amy S. Atkins, Clerk to the Board

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt Resolution #2012- -54: Resolution to Adopt the Lincoln County Farmland Protection Plan.

The Planning Board thanked staff for this Plan and the hard work they put into it.

Public Comments: Chairman Patton opened public comments.

Robert Tomlinson, 501 S. Grove Street, Lincoln, said he is a resident of the city, but lives on a State road. He said he saw the transportation information on the agenda and was interested. He said someone will have to be killed before the state, city or county does something about this road.

Patricia Austin, 6513 Cedar Street, Denver, stated that she came before the Board three years ago concerning Denver United Methodist Church's ballfield. She said the church put in the Cyprus trees, they do adhere to the lights turned off at 9:30 p.m. She said there are still no shields on the lights and parking is a major situation and problem.

April Case, 6499 Cedar Street, Denver, said there is a parking issue and people are in and out of there. She said her home has been robbed twice. She said there are bad things that go on at night at the graveyard.

Clayton Austin, 6513 Cedar Street, said they have no idea who is who in their neighborhood. He said racial slurs were written on the road in front of his house. He said the field is used pretty much every day and on the weekends.

Commissioner Arena said conditions were placed on the church when the fields were installed. He asked staff to look into the issue to ensure the conditions are being met. Being no additional speakers, Chairman Patton closed public comments.

Motion to Adopt Ordinance #2012-25: Ordinance Amending the Lincoln County Emergency Management Ordinance - Martha Lide

It is recommended that the Board approve the Ordinance amending the Lincoln County Emergency Management section of the Lincoln County, North Carolina Code of Ordinances.

The current section of the Lincoln County Code of Ordinances which pertains to Emergency Management became effective August 7, 1980. During the 2012 Session, the North Carolina General Assembly enacted legislation that consolidated, reorganized, and clarified the emergency management statutes. The attached Ordinance amends the Lincoln County Code of Ordinances to be compatible with those changes. Rather than making wording changes throughout the old code, a new code Ordinance was prepared to clearly track the State Statutes.

Other than wording changes that better track the current statute, the one major change is the limitation the County can impose on dangerous weapons during a local emergency. While local officials are still authorized to impose restrictions on the possession, sale, purchase, storage, and use of dangerous weapons and substances and gasoline, these restrictions now cannot apply to

“lawfully possessed firearms and ammunition.” A firearm is defined as a handgun, rifle, or shotgun.

In our previous Ordinance, the penalty for violation was a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4. The proposed Ordinance stipulates a penalty of a Class 2 misdemeanor in accordance with GS 14-288.20A.

The Emergency Services Committee reviewed and approved this ordinance at their meeting on October 9, 2012.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt Ordinance #2012-25: Ordinance Amending the Lincoln County Emergency Management Ordinance.

**ORDINANCE AMENDING THE LINCOLN COUNTY EMERGENCY
MANAGEMENT ORDINANCE**

WHEREAS, on August 7, 1980, the Lincoln County Board of Commissioners enacted an Emergency Management Ordinance; and

WHEREAS, the North Carolina General Assembly, by S.L. 2012-12 enacted legislation entitled “Modernize N.C. Emergency Management Act;” and

WHEREAS, the North Carolina General Assembly desired to consolidate and reorganize statutes establishing emergency management authorities for state and local governments; and

WHEREAS, the Lincoln County Board of Commissioners desires to amend its emergency management ordinance to, among other things:

- a. Make the Emergency Management Ordinance compatible with changes to the General Assembly Legislation;
- b. Clarify restrictions on lawfully possessed firearms; and
- c. Change the penalty for violations of said ordinance.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED that the previous ordinance effective August 7, 1980, entitled “Emergency Management Ordinance” is amended by being deleted by its entirety and there is inserted in lieu thereof the following:

**ORDINANCE #2012-
ORDINANCE AMENDING THE LINCOLN COUNTY
EMERGENCY MANAGEMENT ORDINANCE**

PURPOSE; SCOPE and INTENT.

The purpose of this Ordinance is to set forth the authority and responsibility of the local government in prevention of, preparation for, response to and recovery from natural or man-made emergencies or hostile military or paramilitary action and to reduce the vulnerability of people and property of this County to damage, injury and loss of life and property.

The authority to enact this ordinance is granted in GS Chapter 166A, Article 1A.

With the enactment of this Ordinance, Chapter 32 Emergency Management of the Lincoln County, North Carolina Code of Ordinances is repealed and substituted with this Ordinance. This Ordinance shall be immediately effective upon its adoption.

DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply:

Chair of the Board of County Commissioners – The chair of the Board of County Commissioners, or in the chair’s absence or disability, the person authorized to act in the chair’s stead. Unless the governing body of the county has specified who is to act in lieu of the chair with respect to a particular power or duty set out in this Article, this term shall mean the person generally authorized to act in lieu of the chair.

Emergency – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather related or riot related cause.

Emergency area – The geographical area covered by a state of emergency.

State of Emergency – a finding and declaration by any of the following authorities that an emergency exists:

- a. The Board of Commissioners or the Chair of the Board of Commissioners, acting under the authority of G.S. 166A-19.22
- b. The Governor, acting under the authority of G.S. 166A-19.20.
- c. The General Assembly, acting under the authority of G.S. 166A-19.20.
- d. The mayor of the City of Lincolnton or of any other municipality subsequently incorporated within Lincoln County, acting under the authority of G.S. 166A-19.22.

COUNTY DECLARATION OF A STATE OF EMERGENCY.

- (A) A state of emergency may be declared by the Chair of the Board of County Commissioners.
- (B) The emergency area for the state of emergency declaration shall not exceed the area over which the County has jurisdiction to enact general police power ordinances. The emergency area may include part or all of the County. Unless the declaration of the state of emergency provides otherwise, the emergency area includes the entire jurisdiction subject to limitations relating to municipalities.

- (C) **The emergency area of the state of emergency shall not include any area within the corporate limits of the City of Lincoln or any other subsequently created municipality, unless such Municipality's governing body or Mayor consents to or requests the state of emergency application. Such an extension may be with respect to one or more of the prohibitions and restrictions imposed in the County pursuant to the authority granted in GS 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section.**
- (D) The Board of Commissioners or the Chair of the Board of Commissioners, who has been requested to do so by the Mayor of any municipality within the County's jurisdiction, may by declaration extend the emergency area of a state of emergency declared by such municipality to any area within Lincoln County in which the board determines it to be necessary to assist in the controlling of the emergency within such municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed on the mayor of such municipality pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following limitations:
1. The extension of the emergency area shall not include any area within the corporate limits of such municipality, or within any area of the county over which the municipality has jurisdiction to enact general police ordinances, unless the mayor or governing body of such municipality consents to its application.
 2. The Chair of the Board of Commissioners shall take reasonable steps to give notice of its terms to those likely to be affected.
 3. The Chair of the Board of Commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:
 - a. The Chair or the Board of Commissioners' determination that they are no longer necessary.
 - b. The termination of the prohibitions and restrictions within such municipality.
- (E) Expiration of State of Emergency - The state of emergency shall expire when it is terminated by the Chair of the Board of County Commissioners.
- (F) **The declaration of the state of emergency shall activate the local ordinances authorized in G.S. 166A-19.31 and any and all applicable plans, mutual assistance compacts, and agreements, and shall also authorize the furnishing of assistance thereunder.**

PROHIBITIONS AND RESTRICTION.

- (A) A declaration issued pursuant to this Ordinance shall trigger the prohibitions

against excessive pricing during states of emergency or abnormal market disruptions pursuant to G.S. 75-37 and G.S. 75-38.

(B) The Board of County Commissioners, or the Chair, is not required to, but may impose the following prohibitions or restrictions in their declaration of a State of Emergency:

1. **Of movements of people in public places including imposing a curfew; directing and compelling voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body’s jurisdiction; prescribing routes, modes of transportation, and destinations in connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area.**
2. **Of the operations of offices, businesses and establishments, and other places to and from which people may travel or at which they may congregate.**
3. **Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.**
4. **Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. The term “dangerous weapons and substances” has the same meaning as it does under G.S. 14-288.1. The term “firearm” has the same meaning as it does under G.S. 14-409.39(2).**
5. **Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency.**

B) All prohibitions and restrictions imposed by declaration shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of prohibitions and restrictions in the mass communication media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of full text of any declaration shall be made. Provisions of G.S 1-597 do not apply.

C) Prohibitions and restrictions shall expire on the earliest of when:

1. The prohibition or restriction is terminated by the Chair or Board of County Commissioners; or
2. The state of emergency is terminated.

VIOLATIONS

Any person who violates this ordinance or a declaration pursuant to this ordinance shall be guilty of a Class 2 misdemeanor in accordance with GS 14-288.20A.

This Ordinance shall become effective immediately upon passing.

Duly adopted this ____ day of November, 2012.

Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk to the Board

Motion to Adopt Ordinance #2012-26: An Amendment Ordinance to Regulate and Establish Penalties for False Alarms in Lincoln County - Martha Lide

It is recommended that the Board approve the Ordinance to revise an Ordinance that was approved in 2008 to regulate and establish penalties for False Alarms in Lincoln County.

While false alarms are not considered to be a major concern for the County, there are enough false alarms to warrant penalties for excessive false alarms.

	2011	2012 YTD Aug
Total False Alarms	648	398
Properties with 4-5 False Alarms	11	6
Properties with 6-8 False Alarms	3	1
Properties with 9-11 False Alarms	2	0
Properties with more than 12 False Alarms	0	0

The significant change to the Ordinance concerns the method of notification of the property owner when a false alarm occurs. Previously, the Ordinance required the “investigating officer to notify the property owner by first class mail” of the false alarm occurrence. The proposed Ordinance provides that the “Alarm Systems Coordinator” will notify the property the property owner. The 911 Administrator is defined as the “Alarm Systems Coordinator.” All other changes are minor wording changes.

The following are highlighted provisions of the Ordinance that remain unchanged:

- The Ordinance is designed to encourage alarm users and alarm companies to properly use and maintain alarm systems to reduce or eliminate false alarms. This will reduce unnecessary use of limited Sheriff's Office resources and hidden costs associated with investigating false alarms.
- Four or more false alarms in a twelve month period are considered excessive. The civil penalties for excessive alarms are as follows:
 - 4th and 5th alarm - \$25 per occurrence
 - 6th thru 8th alarm - \$50 per occurrence
 - 9th thru 11th – 100 per occurrence
 - 12 or more - \$200 per occurrence
- Property Owners may request a review of their determination of a false alarm through the County Manager or his designee.
- Alarm systems operated by the County, state or federal government used for governmental purposes are not subject to the Ordinance, although permits are required.

This Ordinance was reviewed and approved by the Emergency services Committee on October 10, 2012.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Ordinance #2012-26: An Amendment Ordinance to Regulate and Establish Penalties for False Alarms in Lincoln County.

Ordinance #2012-24: An Ordinance Amending Chapter 30 of the Lincoln County Code of Ordinances Dealing with Concealed Handguns on County Property:

Martha Lide presented the following:

The North Carolina General Statutes concerning concealed carry handguns changed in 2011, and the Lincoln County Ordinance must be modified to be consistent with the Statutes. N.C.G.S. 14-415.23 restricts local governments' rights to enact rules restricting lawfully concealed weapons. The intent of the Statute is to prescribe a uniform system across the State for the regulation of carrying a concealed weapon.

To insure uniformity, the statute requires that “no political subdivisions, boards, or agencies of the State nor any county, city municipality, municipal corporation, town, township, village, nor any department or agency, thereof may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun.”

However, the Statutes provide that the County can do the following:

1. Adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.119(c), in local government buildings and their appurtenant premises.
2. Adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by

the unit of local government.

Recreational facilities are defined to include only the following: a playground, an athletic field, a swimming pool, and an athletic facility. The concealed handgun permittee may secure their handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle at the recreational facility, even if a local ordinance prohibits handguns at the facility.

There are two possible options to come into compliance:

- 1) Adopt an ordinance prohibiting legally permitted concealed handguns in county buildings and recreational facilities; or
- 2) Adopt an ordinance that deletes existing language prohibiting any handguns on county property, and not put any other language in place.

UPON MOTION by Commissioner Robinson, the Board voted unanimously to adopt Ordinance #2012-24: An Ordinance Amending Chapter 30 of the Lincoln County Code of Ordinances Dealing with Concealed Handguns on County Property.

NCACC Board Meeting Highlights - Commissioner Klein

Commissioner Klein gave updates from the recent NCACC Board meeting.

Vacancies/Appointments: **UPON MOTION** by Commissioner Robinson, the Board voted unanimously to make the following appointments:

Vacancies:

- Nursing and Adult Home Community Advisory Committee
- Recreation Commission
 - o Lincolnton Township
- Lincoln Natural Resources
- Industrial Revenues Bond Board
- Library Board – North Brook Township
- Region F Aging Advisory Board – 2 vacancies
- **Board of Adjustment Alternate**

Appointments:

Planning Board – At Large:

Brian Rabalais

Board of Adjustment:

Darren Smith (move from Alternate to regular unexpired seat ending 03/31/13)

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

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners