

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 4, 2002

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on March 4, 2002 at the Citizens Center, Commissioner's Room, Third Floor, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Jerry W. Cochrane, Chairman
Beth H. Saine, Vice Chair
Thomas R. Anderson, PE
Larry S. Craig
David P. Choate

Planning Board Members Present:

Jerry Geymont, Chairman
Mike Baker, Vice Chairman
Dean Lutz, Secretary
Eddie Sigmon
Stanley Roseboro
Gerald Johnson
John Pagel

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of BALD
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Cochrane called the March 4, 2002 meeting of the Lincoln County Board of Commissioners to order and welcomed everyone present.

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

Commissioner Choate requested a closed session to discuss a real estate matter. This was added as Item 14.

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

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARINGS
MARCH 4, 2002

- | | | |
|----|---------|--|
| | 6:30 PM | Call to Order |
| 1. | 6:31 PM | Adoption of Agenda |
| 2. | 6:32 PM | Approval of Minutes
- February 18, 2002 |
| 3. | 6:35 PM | Resolution Honoring Judy Caudill |
| 4. | 6:45 PM | New Business/Advertised Public Hearings |

ZMA #408 Joseph Edwin Tate Sr., applicant: The applicant is requesting to rezone a 1.25-acre parcel from Residential Suburban (R-S) to General Business (B-G). The property is located at 3700 Gastonia Highway in High Shoals.

ZTA #409 Lincoln County, applicant An amendment to Section 10.11.1 of the Lincoln County Zoning Ordinance is proposed to add “auto repair garage” as a permitted use by right in the General Business (B-G) district.

WSTA #4 Lincoln County, applicant Amendments to the Lincoln County Watershed Protection Ordinance are proposed to make Section 501 and Section 507 conform with Section 302 (Development Regulations). Section 302 was amended in 1995 to reflect a revision in the state regulations increasing the area of a watershed district that may be developed with projects exceeding the standard limits on built-upon surface area, and to allow the so-called 10/70 option in certain WS-IV districts. The other sections weren’t amended then to include the changes.

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| 5. | 7:20 PM | Historic Designation of Alexander-Graham House – Barry McKinnon, Land-Use Coordinator |
| 6. | 7:30 PM | ABC Referendum – Judy Caudill |
| 7. | 7:40 PM | Martin Luther King Day – Robert Hamilton |

8. 7:55 PM New EMS Rule Change – Ron Rombs
9. 8:05 PM Progress Report for Tax Foreclosures – Madge Huffman
10. 8:20 PM East Lincoln Library – W. J. Waters
11. 8:35 PM Timken Sewer Line Agreement – Jeff Taylor
12. 8:50 PM Set Public Hearing for ROAP Grant Application for March 18, 2002 at 7:30 PM
13. 8:55 PM Other Business

Adjourn

Approval of Minutes – February 18, 2002: Chairman Cochrane presented the minutes of the February 18, 2002 meeting for the Board’s approval.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the February 18, 2002 minutes with the following changes:

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Invocation: The Invocation was given by Carrol Owens of New Testament Church ~~gave the Invocation.~~

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Commissioner Anderson presented copies of calculations from Barry Matherly, *Executive Director of Economic Development.*

Resolution Honoring Judy Caudill: Chairman Cochrane presented Judy Caudill with the following Resolution.

RESOLUTION HONORING JUDY B. CAUDILL

WHEREAS, Judy B. Caudill has served the Citizens of Lincoln County since October 6, 1969 and has achieved the highest professional status as an Election Director in Lincoln County; and

WHEREAS, Judy B. Caudill has exhibited unselfish devotion and commitment in diligently fulfilling her responsibilities and duties as a County employee during her 33 years of service in the Board of Elections Office; and

WHEREAS, Judy B. Caudill through her faithfulness and dedication to the Citizens of Lincoln County, she has earned their deepest respect, appreciation, and has always made long term commitments to keep knowledge to the highest level of ethics; and

WHEREAS, Judy B. Caudill has been selected by the North Carolina State Board of Elections with their highest Award of Excellence for Outstanding Service in Elections and this brings honor not only to our County, but recognition throughout the State of North Carolina;

NOW, THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners congratulates and commends Judy B. Caudill for her accomplishment in receiving this Award of Excellence for Outstanding Service in Elections and express their appreciation for her dedication and devotion to the Citizens of Lincoln County.

Jerry W. Cochrane, Chairman

Beth H. Saine, Vice Chair

Thomas R. Anderson

David P. Choate

Larry S. Craig

Chairman Cochrane addressed the Anderson Mountain Road situation. He stated that there is no conditional use permit for the development at Anderson Mountain. No Conditional Use Permit is required for that development; it can be put in by right the way the property is zoned. He stated that the Commissioners and Planning Board have been discussing setting up a requirement where a Conditional Use Permit would be needed in that zoning district. This will not affect that development.

Jeff Taylor also addressed the situation, saying that there is a legal problem with changing the laws midstream.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, March 4, 2002 and the time, which was advertised in the *Lincoln Times-News* on Friday, February 22, 2002 and Friday, March 1, 2002.

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, March 4, 2002, at 6:30 p.m. to consider the following matters:

ZMA #408 Joseph Edwin Tate Sr., applicant (Parcel ID# 00870) The applicant is requesting to rezone a 1.25-acre parcel from Residential Suburban (R-S) to General Business (B-G). The property is located at 3700 Gastonia Highway in High Shoals.

ZTA #409 Lincoln County, applicant. An amendment to Section 10.11.1 of the Lincoln County Zoning Ordinance is proposed to add "auto repair garage" as a permitted use by right in the General Business (B-G) district.

WSTA #4 Lincoln County, applicant. Amendments to the Lincoln County Watershed Protection Ordinance are proposed to make Section 501 and Section 507 conform with Section 302 (Development Regulations). Section 302 was amended in 1995 to reflect a revision in the state regulations increasing the area of a watershed district that may be developed with projects exceeding the standard limits on built-upon surface area, and to allow the so-called 10/70 option in certain WS-IV districts. The other sections weren't amended then to include the changes.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Zoning Map Amendment No. 408 – Joseph Edwin Tate, Sr., applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 408 – Joseph Edwin Tate, Sr., applicant.

The applicant is requesting to rezone 1.25-acre parcel from Residential Suburban (R-S) to General Business (B-G).

The property is located at 3700 Gastonia Highway in High Shoals. It is joined on the east by property zoned General Business and on the south, west, and north by property zoned Residential Suburban. The property is the site of an auto sales lot that is grandfathered under the current zoning. A rezoning would allow other possible uses.

Chairman Cochrane opened the Public Hearing on Zoning Map Amendment No. 408 – Joseph Edwin Tate, Sr., applicant.

Joseph Edwin Tate, Jr. stated that his father owns this property. He said the land is zoned residential and the best use of the property would be general business.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Zoning Map Amendment No. 408 – Joseph Edwin Tate, Sr., applicant, closed.

Zoning Text Amendment No. 409: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 409.

An amendment to Section 10.11.1 of the Lincoln County Zoning Ordinance is proposed to add “auto repair garage” as a permitted use by right in the General Business (B-G) district.

We have been allowing auto repair businesses in B-G, but the zoning ordinance doesn't spell it out. The ordinance defines “auto repair garage” as a business “primarily involving the maintenance and servicing of vehicles.” This would include businesses that mainly change oil in cars or replace brakes or mufflers as well as shops that perform a variety of repairs.

This proposal would:

Amend Section 10.11.1 to add “auto repair garage” as item “J”

Chairman Cochrane opened the Public Hearing concerning Zoning Text Amendment No. 409.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing on Zoning Text Amendment No. 409, closed.

Watershed Text Amendment No. 4: Randy Hawkins, Zoning Administrator, presented the following information concerning Watershed Text Amendment No. 4.

Amendments to the Lincoln County Watershed Protection Ordinance are proposed to make Section 501 and Section 507 conform with Section 302 (Development Regulations). Section 302 was amended in 1995 to reflect a revision in the state regulations increasing the percentage of a watershed district that may be developed with projects exceeding the standard limits on built-upon surface area, and to allow the so-called 10/70 option in certain WS-IV districts. The other sections weren't amended then to include the changes. This proposal is simply to clean up the language in those sections. The proposed new text is shown in bold:

- Section 501 (Watershed Administrator and Duties Thereof):

D. The Watershed Administrator (or his designee) shall keep records of the jurisdiction's use of the provision that a maximum of **ten percent (10%)** of the non-critical area of WS-II and WS-III watersheds **and ten percent (10%) of the protected area of the Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie, and Catawba/South Fork Catawba River WS-IV watersheds** may be developed with new development at a maximum of seventy percent (70%) built-upon surface area.

- Section 507 (Procedures for Obtaining Conditional Approval):

In any WS-II BW and WS-III BW watershed district **and in the Catawba/Mountain Island Lake, Catawba/Hoyle Creek, Catawba/Lake Wylie and Catawba/South Fork Catawba River WS-IV watersheds**, up to ten (10) percent of the gross land area within that portion of a watershed which lies within the jurisdiction of this Ordinance (as of January 1, 1994) and which is outside a designated critical area, may be developed with non-residential uses having built-upon areas of up to seventy percent (70%).

- 507-G (Findings of Fact), item 5:

The proposed development will substantively increase the ad valorem tax base of Lincoln County or otherwise significantly promote or expand economic development and/or job opportunities available to Lincoln County residents (NOTE: This finding of fact shall only be required for those projects employing the 10/70 option in WS-II, WS-III and **WS-IV** districts.)

Chairman Cochrane opened the Public Hearing concerning Watershed Text Amendment No. 4.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Watershed Text Amendment No. 4, closed.

Chairman Cochrane stated that by consent of the Planning Board Chairman, both boards would hear comments from citizens on Anderson Mountain Road.

Gisela Zink stated that she lives on Anderson Mountain Road and is still concerned about what this development will do to their neighborhood. She asked the Board to put restrictions on so it would look nicer and improve the development.

Historic Designation of Alexander-Graham House –Barry McKinnon, Land Use Coordinator: Barry McKinnon, Land Use Coordinator, presented information concerning the Historic Designation of the Alexander-Graham House. He presented the following Ordinance designating the house as a historic property.

AN ORDINANCE DESIGNATING AS AN HISTORIC PROPERTY THE PROPERTY KNOWN AS “ALEXANDER-GRAHAM” HOUSE AND PROPERTY TO INCLUDE THE FOLLOWING: THE INTERIOR AND THE EXTERIOR OF THE STRUCTURE AND 0.567 ACRES OF PROPERTY WITH IDENTIFICATION NUMBER 3623 20 82 9226 AND 01171. THE PROPERTY OWNED BY CRYSTAL POOLE GRAHAM IS LOCATED ON 613 SOUTH ASPEN STREET, LINCOLNTON, LINCOLN COUNTY, NORTH CAROLINA.

WHEREAS, all of the prerequisites to the adoption of this ordinance prescribed in Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina have been met; and

WHEREAS, the Lincoln County Historic Properties Commission has caused to be made and reviewed the report on the historic, architectural, educational and cultural significance of the “Alexander-Graham House” and property and recommended to the Lincoln County Board of Commissioners designation of “Alexander-Graham House” and property; and

WHEREAS, the North Carolina State Historical Preservation Office has reviewed the historic, architectural, and educational and cultural significance of “Alexander-Graham” and property; and

WHEREAS, the Members of the Board of Commissioners of Lincoln County, North Carolina have taken into full consideration all statements and information presented at a joint public hearing held with the Lincoln County Historic Properties Commission on the 4th of March, 2002, on the question of designating a property known as “Alexander-Graham House” and property as a historic property; and

WHEREAS, the home was constructed circa 1852; and

WHEREAS, the house is a Greek Revival residence; and

WHEREAS, the home is a distinctive one story, double pile, center hall plan rarely found in Lincoln County with such noteworthy Greek Revival features as a pedimented, temple front form, classical portico; and

WHEREAS, Crystal and Michael Graham, the current owners have faithfully maintained the house and has thereby made a substantial contribution to the cultural richness of Lincoln County; and

WHEREAS, the Lincoln County Historic Properties Commission has demonstrated that the property possesses a structure having integrity of design, setting, workmanship, materials and/or association; and

WHEREAS, the property known as the “Alexander Graham” property is owned by Crystal Graham.

NOW, THEREFORE BE IT ORDAINED by the Members of the Board of Commissioners of Lincoln County, North Carolina:

1. The property known as the Alexander-Graham property including the exterior of the house, the interior and remaining property, listed under property number 3623 20 82 9226 is hereby designated as historic property pursuant to Chapter 160A, Article 19, as amended, of the General Statutes of North Carolina. For purposes of description only, the location of said building and property is noted as being situated on a tract of property more specifically described in the Deed attached to Resolution.
2. That said designated historic property may be materially altered, removed or demolished only following the issuance of a Certificate of Appropriateness by the Lincoln County Historic Properties Commission. An application for a Certificate of Appropriateness authorizing the demolition of said historic property may not be denied. However, the effective date of such a Certificate of Appropriateness in accordance with Chapter 160A, Article 19, and amendments thereto and hereinafter adopted.
3. That nothing in this ordinance shall be construed to prevent or delay the ordinary maintenance or repair of any architectural feature in or on said historic property that does not involve a change of design, material or outer appearance thereof, nor to prevent or delay the construction, reconstruction, alteration, restoration, demolition or removal of any such features when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe condition. Nothing herein shall be construed to prevent the

historic property owner from making any use of this historic property not prohibited by other statutes, ordinance or regulations.

4. That a suitable sign may be posted indicating that said property has been designated as an historic property and containing any other appropriate information. If the owner consents, the sign may be placed on said historic property.
5. That the owners and occupants of the historic property known as "Alexander-Graham" property be given notice of this ordinance as required by applicable law and that copies of this ordinance be filed and indexed in the offices of the Clerk to the Board of Commissioners, Register of Deeds, Building and Land Development and the Tax Supervisor, as required by applicable law.
6. That which is designated, as historic property shall be subject to Chapter 160A, Article 19 and any amendments to it and any amendments hereinafter adopted.

Adopted this 4th day of March, 2002.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the Ordinance.

ABC Referendum – Judy Caudill: Judy Caudill presented the Board with a Resolution to Confirm Issues for the Alcoholic Beverage Election.

RESOLUTION TO CONFIRM ISSUES FOR ALCOHOLIC BEVERAGE ELECTION

WHEREAS, Lincoln County needs to increase revenues to fund capital spending projects, public school needs, and services to support population growth; and

WHEREAS, the lack of outlets to sell alcoholic beverages in the county outside the Lincolnton city limits causes the tax revenues on those beverages to go to the surrounding counties; and

WHEREAS, economic development in the county would be enhanced by the availability of outlets for alcoholic beverages; and

WHEREAS, on February 18, 2002, the Lincoln County Board of Commissioners voted to request that the Lincoln County Board of Elections hold an election on alcoholic beverage sales in Lincoln County and now wishes to confirm the propositions to be submitted to the voters at such election;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, pursuant to North Carolina General Statute 18B-601, that the Lincoln County Board of

Commissioners requests that the Lincoln County Board of Elections hold an election at the earliest practical time on the propositions specified on the proposed sample ballot attached hereto as Exhibit A and incorporated herein by reference.

Adopted this 4th day of March, 2002.

LINCOLN COUNTY

By: _____
Jerry W. Cochrane
Chairman, Board of Commissioners

ATTEST:

Amy S. Long, Clerk to the
Board of Commissioners

A MOTION by Commissioner Anderson to adopt the Resolution as presented.

Vote: 4 –1 AYES: Anderson, Cochrane, Choate, Saine
NOES: Craig

Martin Luther King Day – Robert Hamilton: Robert Hamilton thanked the Board for allowing them to be here tonight.

Sandra Nixon-Little asked for the official observance of the Martin Luther King Day holiday by Lincoln County, North Carolina.

Reverend John Bell of Bethpage Lutheran Church, and President of the Ministerial Association stated that the Association supports this holiday.

UPON MOTION by Commissioner Craig, the Board voted unanimously to declare the 3rd Monday in January as Dr. Martin Luther King Day paralleling the State’s holiday schedule.

Chairman Cochrane called for a brief recess.
Chairman Cochrane called the meeting back to order.

New EMS Rule Change: Ron Rombs, Director of Emergency Medical Services, stated that effective January 1, 2002, new North Carolina General Statutes went into effect that govern Emergency Medical Services for the State. These new rules require the establishment of a county EMS system.

The initial step of establishing the system for Lincoln County is to establish a planning team. This team will establish and structure the EMS System for Lincoln County. Mr.

Rombs presented a proposed list for the Planning Team. He reported that he will call the individuals on the list to see if they are willing to serve.

Progress Report for Tax Foreclosures: Madge Huffman presented a progress report on tax foreclosures. She stated that their collection records reflect that \$176,677 in taxes has been collected that would probably not have been paid without this effort. She stated that a form letter will be mailed to the lienholders on the properties scheduled for foreclosure. Ms. Huffman stated that she will provide progress reports on a quarterly basis on tax foreclosures.

East Lincoln Library – W. J. Waters: W. J. Waters presented the cost review for the East Lincoln Branch Library. The total contract price will be \$813,293. There will be a contingency of \$24,400 and furnishings of \$80,000. The furnishings will be paid by the fundraising committee. There is a total of \$901,000 available for this project, which will have a total cost of \$916,693. The \$16,693 balance will also be paid by the fundraising committee.

Harold Tarleton with Tarleton-Tankersley Architectural Group presented the Board with contracts to be signed. Fifteen bids were received, the low bidder being W. G. Holden of Charlotte.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to accept the construction contracts presented by Mr. Tarleton subject to legal review and approval.

Commissioner Anderson thanked the Library Committee, and particularly former Commissioners Terry Brotherton and W. J. Waters for continuing with this Committee.

Timken Sewer Line Agreement – Jeff Taylor: Jeff Taylor presented the Board with the Timken Sewer Line Agreement.

UPON MOTION by Commissioner Saine, the Board voted unanimously to approve the Agreement with the City of Lincoln.

Set Public Hearing for ROAP Grant Application for March 18, 2002 at 7:30 PM:

UPON MOTION by Commissioner Craig, the Board voted unanimously to set a public hearing for the ROAP Grant Application for March 18, 2002 at 7:30 PM.

Other Business: Steve Gilbert, Director of Public Utilities, presented the Board with a memo to be sent to permit holders who did not respond to the first letter concerning the water service availability fee.

Commissioner Craig suggested that the Board have Kelly Atkins to match names and building permits, not sending letters to those who have expired permits.

UPON MOTION by Commissioner Craig, the Board voted unanimously to allow the Director of Public Utilities to mail this letter to those who have valid building permits.

UPON MOTION by Commissioner Saine, the Board voted unanimously to authorize staff to refund the 4 customers who have paid the full fee.

Steve Gilbert stated that they will be sent letters along with their refund checks.

Steve Gilbert presented the Board with a letter from Mr. Noah Lasez asking for an adjustment on his water bill. Mr. Lasez lives at 7992 Blue Water Court and does not occupy his residence full time. His water bill is paid by his secretary and fluctuates somewhat. His secretary paid a bill received in November for \$467, his average bill is around \$80. He wasn't aware that there was an increase. The following month's bill was \$1679 and raised a red flag. Mr. Lasez had a plumber come out that found a leak in his yard. He has someone checking his home regularly while he's out of town. His January bill was \$1,896. The Adjustment Policy only allows for one month's bill to be adjusted, based on the prior 6 month average. The Policy also includes provisions to recoup the cost of producing the water that has leaked out of the system. His adjustment was approved on the \$1896, which was \$1290, leaving him a balance of \$605. The adjustment on the \$1679 bill would be \$1128, with a balance of \$540.

UPON MOTION by Commissioner Craig, the Board voted unanimously to adjust Mr. Lasez's January bill as presented.

Commissioner Craig asked if there was any modern technology that would run up a red flag when customers use an excessive amount of water compared to their normal usage. He requested that they look for some kind of technology to do this.

Commissioner Craig asked permission of the Board for Buddy Funderburk's wife to have a key to be able to open the Home Economics Kitchen for the quilting organization.

It was the consensus of the Board to allow Mrs. Funderburk a key for access to the Home Economics Kitchen.

Stan Kiser, County Manager, informed the Board that Centralina COG would like Lincoln County to host the RPO meeting on March 20. This will be for about 30 people and no food will be provided.

Jeff Taylor stated that the revised Heater contract will be on the March 18, 2002 agenda for final approval by the Board.

Chairman Cochrane stated that the North Carolina Association is going to be recommending soon that counties adopt the ½ percent sales tax that sunsets next year. He stated that he would like for this to be on the agenda soon.

Closed Session: UPON MOTION by Commissioner Choate, the Board voted unanimously to go into Closed Session to discuss a real estate and personnel matters with the County Attorney.

UPON MOTION by Commissioner Choate, the Board voted unanimously to go out of Closed Session.

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

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners