

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 23, 2002

The Lincoln County Board of County Commissioners met in regular session on September 23, 2002 at the Citizens Center, Commissioners Room, 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-Chairman
Thomas R. Anderson, PE
Larry S. Craig
David P. Choate

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board

Call to Order: Chairman Cochrane called the meeting to order.

Adoption of Agenda: UPON MOTION by Commissioner Craig, the Board voted unanimously to adopt the agenda adding items 10A – Flaws in Water Leak Policy, Item 11A – Resolution Concerning Highway 73, and adding ZTA #422 under item 18.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 23, 2002

- | | | |
|----|---------|---|
| | 7:00 PM | Call to Order |
| 1. | 7:01 PM | Adoption of Agenda |
| 2. | 7:02 PM | Approval of Minutes
- September 9, 2002 |
| 3. | 7:05 PM | Consent Agenda
- Tax Requests for Releases
Less than \$100 – July 16 – August 15, 2002
More than \$100 – July 16 – August 15, 2002
- Tax Requests for Refunds
Less than \$100 – July 13 – August 16, 2002
More than \$100 – July 13 – August 16, 2002 |

- Budget Adjustments 22 – 24, 26 - 29
- Sponsored Group Status for Auditorium
 - Greater Mount Zion Baptist Church

4. 7:10 PM Public Comments
5. 7:25 PM 4H Proclamation
6. 7:30 PM Zoning Public Hearings

ZTA #430 Lincoln County, applicant. A proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add a definition for “nightclub” and to amend Section 10.11.2 to add “nightclubs” as a use permitted in the General Business (B-G) district subject to the issuance of a conditional use permit and subject to the requirements that no such establishment be located within 200 feet of a church, elementary or secondary school, day care center, public park or residentially zoned property, or within 150 feet of any other such establishment, as measured from the nearest point of each property line.

ZTA #431 Lincoln County, applicant. A proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add definitions for “adult establishment” and “adult cabaret” and to amend Sections 10.11.2 and 10.12.2 to add “adult establishments” as a use permitted in the General Business (B-G) and General Industrial (I-G) districts subject to the issuance of a conditional use permit and subject to the certain requirements, including that no adult establishment be located within 500 feet of a church, elementary or secondary school, day care center, public park or residentially zoned property, or within 1,000 feet of any other adult establishment.

7. 7:50 PM Urgent Repair Program (URP) Grant – Jeff Vernon
8. 8:00 PM ABC Discussion
9. 8:20 PM Authorizing Resolution for Supplemental Grants Program – Steve Gilbert
10. 8:30 PM Capital Project Report for Public Works – Steve Gilbert
11. 8:40 PM Finance Officer’s Report – Leon Harmon
12. 8:50 PM Vacancies
13. 8:55 PM Appointments

- 14. 9:00 PM Calendar
 - 15. 9:05 PM County Commissioners' Report
 - 16. 9:10 PM County Manager's Report
 - 17. 9:20 PM County Attorney's Report
 - 18. 9:30 PM Recommendations from Planning Board
 - ZMA #424 Paul Sisk, applicant
 - CUP #207 Crystal Smith, applicant
 - ZMA #425 John Rollins, applicant
 - ZMA #426 Reginald Robinson, applicant
 - CUP #208 John Vanderbilt, applicant
 - ZMA #427 Brocato LLC
 - ZMA #428 Norman Plantation Inc., applicant
 - ZTA #430 Lincoln County, applicant
 - ZTA #431 Lincoln County, applicant
 - 19. 10:05 PM Other Business
- Adjourn

Approval of Minutes – September 9, 2002: Chairman Cochrane presented the minutes of the September 9, 2002 meeting for the Board's approval.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the minutes as presented.

Consent Agenda: Chairman Cochrane presented the consent agenda for the Board's approval.

UPON MOTION by Commissioner Saine, the Board voted unanimously to approve the Consent Agenda as presented.

REQUESTS FOR RELEASES

NAME	YEAR	A/C NO	AMOUNT
Abernathy, Steven Craig	2002	11568	\$10.59
Barringer, Donna Kelsey	2002	0146756	\$69.00
Berry, John M.	2002	0151847	\$58.22
Brown, Robert F.	2002	12977	\$8.51
Cagle, Ray Rogers	2002	02594	\$69.00

Callahan, Randy Wayne	2002	0088592	\$29.85
Chapman, David Michael	2002	02968	\$69.00
Coates, Michael Allen	2002	0143933	\$69.00
Cochran, Harold	1999-02	21647	\$32.25
Cruse, Betty M.	2002	0153938	\$19.80
Gilbert, Stacy Thomas	2002	0072913	\$50.79
Goodman, Walter Wade	2002	04119	\$2.09
Hamilton, Palmer Jay	2002	0111006	\$89.62
Harkey, Theresa B.	2002	0138248	\$69.00
Henley, Rhonda (Webb)	2002	43509	\$49.14
Houser, Jimmy	2002	01266	\$66.27
Houser, Sandy Elaine	2002	0108627	\$2.88
Hoyle, Amy Michelle	2002	0126510	\$34.72
Hudson, Sandy Lee	2002	0078853	\$4.42
Hudson, Virginia	2002	0155966	\$19.80
Hughes, Christopher Mark	2001/02	0070207	\$8.25
Industrial Tire Exchange DBA/	2002	0106369	\$2.99
Ingold, Edward D. II	2002	0139914	\$23.67
Joe & Petes Grill	2002	0159192	\$32.58
Kiser, Flay	2002	30047	\$83.15
Le Bleu Corp.	2002	0144162	\$9.12
Maynard, Mark Leon	2002	0097975	\$62.65
McLain, Troy Edward	2002	0120449	\$31.77
McLean, Mattie B.	2002	0135450	\$69.00
Morrison, Bobbie Smith	2002	42280	\$68.98
Moss, Roland	1999	0140626	\$78.38
Mosteller, Johnathan Chad	2002	0086263	\$40.45
Newcourt Leasing Corp.	2000	0144212	\$25.41
Plummer, David	2002	0061211	\$92.12
Reel, Leroy Neal	2002	20759	\$69.00
Reynolds, Randy H.	2002	14688	\$69.00
Sain, Carlean Houser	2002	0070218	\$69.00
Sheen Clean	2001	0132476	\$24.76
Sherrill, Maudie	2002	46420	\$69.00
Shupe, Roger Allen	2002	0111308	\$2.10
Smoot, Paul Eric	2002	0127788	\$7.81
Virginia Carolina Refractory	2002	39577	\$95.87
		TOTAL	\$1,859.01

NAME	YEAR	A/C NO	AMOUNT
Baxter, Kenneth Frank Jr.	2002	00353	\$726.74
Bentley, John W.	2002	0149258	\$605.39

Carroll, Nancy S.	2001	0133396	\$1,120.79
Cline, Erick Darin	2002	0098018	\$168.04
CMH Homes Inc.	2002	0152464	\$484.33
Cole, Ronald Bentley	2002	0077668	\$214.84
Cooke, Sherry Yvonne	2002	0072971	\$328.33
Crossland Homes Inc.	2002	0149729	\$483.75
Daniels, Willie Frank (Heirs)	2000-02	17291	\$191.30
Economou, Donna	2001/02	0144122	\$112.61
Ford, Thomas Harrison	2002	0144526	\$147.40
Gilbert, Jeanette L. (Heirs of)	2002	03894	\$7,380.79
Harris, David	2001/02	0149698	\$251.80
Heafner, William L.	2002	29662	\$122.42
Hubbard, Donna B. (Harris)	2002	0097384	\$278.58
Hughes, Ralph Boyd Jr.	2002	01418	\$162.81
Hull, Janice B.	2002	0136499	\$872.97
Jarrett, Debra Cook	2002	0116821	\$2,031.14
Martin, Danny Ray	2002	16061	\$128.90
Merritt, Timothy M.	2001/02	0140004	\$231.44
Mitchell, Walter R.	2002	0097484	\$100.73
Mullins, Thomas C. Jr.	2002	20976	\$237.14
Ryan's Family Steak House	2002	0116112	\$310.26
Scronce, Joe Cephais Jr.	2002	0099363	\$414.89
Sherrill, Gary	1993-96	0061675	\$829.02
Shuford, Beverly	2002	0147377	\$162.66
Shuford, Ellen Holland	2002	09240	\$433.08
Shults, Dennis	2001/02	0125585	\$140.44
Storey, Betty Setzer	2002	0080420	\$103.94
Techknow Video DBA/	2002	0144343	\$199.67
Unicyn Funding Group	2002	0151251	\$359.04
Walker, Johnny & Ruby	2002	01560	\$276.00
Wright, William Jerry	2002	01958	\$1,719.16
		TOTAL	\$21,330.40

NAME	YEAR	A/C NO	AMOUNT
Alvarez, Donna Marie	2001	0119843	\$ 21.09
Atwood, Larry Steven	2002	0143780	\$ 45.91
Avery, Freddie	2001	11834	\$ 30.38
Ayers, Loyd Bryan	2001/02	0073250	\$ 99.81
B L Mullen & Associates Inc.	2001	0142794	\$ 21.03
Ballard, Marie Ervin	2002	0160554	\$ 46.97
Barton, Debra Coates	2002	0069502	\$ 52.32
Beal, Marty M.	2002	12246	\$ 13.23

Benfield, Michelle Bivens	2002	0150166	\$ 29.98
Black, Dennis Gray	2002	0072327	\$ 15.85
Black, John Henry Jr.	2001/02	0079730	\$ 58.10
Black, Kevin Andrew	2001	0088839	\$ 12.95
Blackburn, Helen R.	2002	06435	\$ 1.95
Blakley, Harvey Edward Jr.	2002	0157286	\$ 33.37
Blalock, Barbara Jean	2002	0151483	\$ 46.27
Boone, Jerry L.	2002	41009	\$ 64.32
Boyd, Marian Evette (Drum)	2002	0159386	\$ 23.79
Boyles, Phillip M.	2002	0130126	\$ 3.70
Bridges, Marshall	2002	07111	\$ 79.04
Bright, Barbara Gail	2002	0082146	\$ 41.21
Bustamante, Ramon Manuel	2002	0129786	\$ 31.35
Cable, Danny William	2001	0101851	\$ 24.29
Caldwell, Allen Neal	2001	0076665	\$ 20.78
Carpenter, Jerry Dean	2001	0158811	\$ 34.93
Christie, Michael Lewis	2002	0123645	\$ 17.10
Clark, Natalie Celeste	2001	0135131	\$ 28.47
Cloninger, Michael Kevin	2002	0068199	\$ 57.05
Costner, James	2001	0142509	\$ 11.89
Curtis, John Edward	2002	0159580	\$ 68.28
Davis, Mary Canipe	2002	0077822	\$ 36.68
Dellinger Masonery Inc.	2002	31916	\$ 15.54
Dellinger, Bruce A.	2002	30428	\$ 9.33
Dellinger, Donna Howard	2002	0079363	\$ 42.10
Drouillard, Ladonna Jean	2002	0087061	\$ 28.23
Drum, Bettie Benfield	2002	0144816	\$ 43.41
Drum, Joe Dean	2002	0066175	\$ 14.26
Duncan, David Frank	2002	0104919	\$ 8.72
Early, Russell Lee	2002	0075339	\$ 43.18
Edwards, Paulette Howard	2002	0080078	\$ 18.04
Eisele, Lori Ives	2001	0139107	\$ 31.30
Engle, Stough Steven	2001	0124042	\$ 17.03
Farrell, Jerry Michael	2002	0062736	\$ 35.64
Ferrell, Ernest	2001	06375	\$ 21.36
File, Tony	2001	0146073	\$ 45.42
Gaddy, Rocky Allen	2002	0159761	\$ 13.72
Gantt, Danny Morris	2002	0068107	\$ 37.96
Garay, Shellie Lynn	2001	0140665	\$ 50.55
Goodman, Walter Wade	2002	04119	\$ 12.87
Halford, James Allen	2002	0159663	\$ 80.60
Handy, Gerald L.	2002	0153506	\$ 8.20

Hendy, Kenrick Wayne	2002	0079229	\$ 67.12
Henkle, Karen Austin	2002	0107597	\$ 13.02
Herman, Mark Randall	2002	0123530	\$ 22.54
Herndon, Charles Sullie	2002	0137109	\$ 23.65
Higgins, Christopher Dwight	2002	0067654	\$ 31.71
Horton, Phillip G.	2002	0135299	\$ 72.10
Horton, Walter Eugene	2002	0140770	\$ 30.40
Houck, Edward Dean	2001/02	0150746	\$ 28.65
Houk, Laurie Marie	2001	0159027	\$ 21.17
Hudson, David Johnful	2001	0081903	\$ 44.89
Huffman, Kelly Ray	2002	0100985	\$ 13.85
Hunter, Harold T.	2002	0142622	\$ 56.98
Ingle, Mark Alan	2001	0143497	\$ 73.96
James, Jimmy R.	2002	12279	\$ 13.28
Johnson, Robert C.	2001	34894	\$ 9.14
Jones, James Brandon	2002	0134782	\$ 30.54
Karslon, Robert A.	2002	0100791	\$ 12.25
Keever, William Charlie	2002	14518	\$ 18.43
Kehoe, Grace A.	2002	0135856	\$ 25.16
Lail, Fred William	2002	0071016	\$ 55.46
Lail, James Herbert	2002	15005	\$ 13.40
Lail, Larry Dale	2002	0160346	\$ 5.21
Land, Margaret S.	2001	0117334	\$ 57.52
Librado, Dana Peeler	2001	0136290	\$ 13.41
Lineberger, Bobby L.	2002	0149149	\$ 13.45
Little, Buster Lee	2002	0112194	\$ 28.57
Littman, Alfred	2002	0087810	\$ 57.94
Loftin, Maggie C.	2002	0119072	\$ 39.14
Martin, Buford Webster Jr.	2002	0133933	\$ 21.83
Matthews, Dennis Ray	2001	0127293	\$ 31.29
McCarver, Rob Lane	2002	0159453	\$ 50.90
McClure, Beverly Forbes	2001	0136212	\$ 72.09
McClure, Kevin Duane	2002	0071733	\$ 50.84
Melesh, Cathy Eileen	2002	0159575	\$ 15.99
Milburn, Ricky Dale	2001	0086774	\$ 11.22
Mitchell, Roger Wayne	2002	0111773	\$ 76.37
Monarch Fiber Inc.	2002	0065438	\$ 14.96
Morera, Gerardo Castillo	2001	0158737	\$ 19.16
Morgado, Torres Miguel Angel	2001	0149005	\$ 18.28
Morrison, Henry C.	2002	43895	\$ 19.94
Moyer, Kenneth Edward	2002	0111429	\$ 9.28
Mozina, Richard G. Jr.	2002	0130220	\$ 84.98

Nachamie, David Aaron	2002	0065976	\$ 10.85
Naish, Timothy L.	2002	0155824	\$ 53.62
Napier, Bennett Edward	2002	0152808	\$ 29.75
New, Bruce Edward	2002	0159626	\$ 20.65
Newsome, Rachel Renee	2002	0159673	\$ 19.55
Payseur, Tommy Charles Sr.	2002	0068746	\$ 11.12
Pigg, Gail D.	2001	0123892	\$ 41.51
Pressley, Kristina Hazelton	2002	0152073	\$ 62.05
Prime Time Imports	2001	0136175	\$ 35.37
Puckette, Eugene Mack III	2001	0085738	\$ 38.11
Puntch, Andrew Ransom	2002	0158804	\$ 6.02
Pyant, Ricky Darnell	2001	0069674	\$ 16.76
R & R Consulting	2002	0159676	\$ 21.71
Reinhardt, Michael Scott	2001	0142330	\$ 4.35
Richard, Deborah Henley	2002	0152038	\$ 51.87
Richardson, Juanita Thompson	2001	0078292	\$ 3.26
Roberts, Eva Sylvia Jean	2002	0160460	\$ 44.72
Robles, Jose Amparo Jr.	2001	0154028	\$ 3.35
Ross, Larry Allen	2002	0095278	\$ 11.80
Rudisill, Betty Whitesides	2002	09781	\$ 68.01
Sain, Gerald Costner	2002	0070415	\$ 4.02
Scronce, Kenneth Edward	2002	0090591	\$ 14.52
Shakir, Hammad	2002	0137590	\$ 22.19
Shenold, Michael B.	2001	0136462	\$ 4.77
Shields, Arthur George	2002	0111716	\$ 60.93
Sisk, Norman W.	2002	20264	\$ 35.87
Smith Excavating	2002	0159774	\$ 41.00
Smith, Gordon Leroy	2002	0091455	\$ 60.30
Smith, Kimberly Renee	2002	0152127	\$ 19.31
Steele, Deborah Ann	2002	0109086	\$ 85.25
Stone, Joshua Aubrey	2002	0104135	\$ 33.14
Stroup, Michael Andrew	2002	0108068	\$ 19.92
Stroupe, Rhonda Sparks	2001	0157333	\$ 30.09
Taylor, Anna Marie	2002	0080168	\$ 6.83
Teeter, Stephen Lee	2002	0091992	\$ 6.21
Tolbert, Danny Boyd Presley	2002	0067776	\$ 14.87
Tripodi, Kaiser Mary Ellen	2002	0160417	\$ 33.67
Ward, Boyd H.	2002	14751	\$ 9.80
Wedlund, Clayton Rudy	2002	0065134	\$ 16.08
Werth, Leslie A.	2002	47924	\$ 45.78
Whitener, Joe Kevin	2002	0120267	\$ 63.99
Williams, Michael Edward	2002	0077549	\$ 35.07

Wilson, Arthur P.	2002	48458	\$ 91.00
Wilson, Bryan Geoffrey	2000	0117565	\$ 5.77
Wingate, Donald Jason	2001	0151620	\$ 55.73
Workman, Ronald Dale	2002	0094169	\$ 10.42
Yoder, David Ray	2002	0086844	\$ 30.16

TOTAL \$4,450.74

NAME	YEAR	A/C NO	AMOUNT
Aguero, Dustin	2002	0125309	\$ 221.61
Brown, Jonathan Allen	2001	0158816	\$ 178.65
Enterprise Leasing Co.	2002	0160761	\$ 259.43
Fitzpatrick, Jeffrey Alan	2002	0128394	\$ 221.84
Hawkins, Jessie Lee	2001	0143632	\$ 169.21
Herbert, Douglas Merrill	2002	0129225	\$ 351.42
Houser, Henry James	2001/02	01261	\$ 128.04
Lineberger, Alexander Lee	2002	0117302	\$ 270.34
Melton, Arlen David	1998/01	0101748	\$ 251.36
Moore, Carl Melvin Jr.	2002	0160357	\$ 156.35
Moose, Jack W. Jr.	2002	32405	\$ 125.44
Mosteller, Phillip Alonzo	2001	0077066	\$ 101.43
Phillips, Danny Leroy	2002	0154122	\$ 156.71
Scronce, Ann Powell	2002	0160201	\$ 129.09
Smith, Dirk D.	2001/02	0151337	\$ 138.13
Smith, Patrena Darnette	2002	0159561	\$ 104.31
Wilson, Jason Howard	2002	0149942	\$ 109.28
		TOTAL	\$ 3,072.64

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (June 15, 2002 to July 12, 2002)

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

NAME	YEAR	DIST	A/C#	AMOUNT
Avery, Wilford Dwight	2002	ELFD	0108677	\$29.76
Leonard, M. M.	2002	ELFD	19174	\$22.43

NAME	YEAR	DIST	A/C#	AMOUNT
Auton, Christine Powell	2001	N321FD	0101350	\$10.75
Ballenger, Harold Jerry	2001	HCFD	0095651	\$4.86
Canipe, Paul Charley	2001	CITY	0145267	\$7.16
Davis, Christopher Brian	2001	AFD	0073318	\$6.37
Davis, Craig Richard	2001	NBFD	0098317	\$7.93
Gantt, Dorothy C.	2001	NBFD	0119075	\$19.47
Matson, Kenneth R.	2001	BCFD	009511	\$29.12
McCombs, Joseph Arthur	2001	BCFD	0153385	\$8.60
McSwain, Walter Cleo	2001	N321FD	0081797	\$15.58

Sell, Donald Arthur	2001	DFD/ELSD	0106197	\$30.75
Soto, Oscar	2001	SFFD	0101711	\$7.42
Thomas, Scottie Ray	2001	HCFD	0095712	\$11.79
Wise, Gladys Gantt	2001	UFD	0075898	\$4.62

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

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Soto, Oscar	2001	SFFD	0101711	\$7.42
Thomas, Scottie Ray	2001	HCFD	0095712	\$11.79
Wise, Gladys Gantt	2001	UFD	0075898	\$4.62

Budget Adjustment No. 22 by Water Department for encumbrance of 2001/2002 final payroll, salaries, and fringe benefits.

Budget Adjustment No. 23 for the Tax Department to encumber software charges.

Budget Adjustment No. 24 for the Historical Association to purchase a sampler. (approved 8/19/02)

Budget Adjustment No. 26 for MIS to change two positions in MIS from temporary to full time as approved July 1, 2002.

Budget Adjustment No. 27 by the Health Department, Maternal Health, to roll over Medicaid Max funds to finish projects already began in last FY budget. Purchase (2) copiers, Power Point Projector, (2) computers, medical records patient software, necessary supplies to become HIPAA compliant.

Budget Adjustment No. 28 for the Health Department, Dental Health, for dental Medicaid carried forward to reimburse Lincoln Dental Health Services Smart Start allotment for FY 2003 to be used to treat indigent children 0 – 5 years.

Budget Adjustment No. 29 for the Health Department, Environmental Health, for a State grant to be used for expenses involved in mosquito control.

**Sponsored Group Status
- Greater Mount Zion Baptist Church**

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

Being no one wishing to speak, Chairman Cochrane declared the public comments section closed.

4H Proclamation – Casey Snyder: Casey Snyder presented the following Proclamation for the Board's approval.

PROCLAMATION

WHEREAS, the youth and volunteers of any community are its greatest natural resource; and

WHEREAS, 4-H is one of the largest youth organizations in North Carolina with more than 200,000 young people between the ages of 5 and 19 that participate with the help of more than 27,000 adult and youth volunteers; and

WHEREAS, the 4-H program is conducted by North Carolina Cooperative Extension Service at North Carolina State and North Carolina A&T State Universities; and,

WHEREAS, Lincoln County's 4-H program numbers over 1550 members and over 200 volunteers and supporters of the 4-H program; and

WHEREAS, 4-H is an organization where youth learn together in all kinds of projects, events, and activities; and,

WHEREAS, 4-H has been helping youth and adults learn, grow, and work together for a hundred years.

NOW, THEREFORE, I Jerry W. Cochrane, Chairman to the Board of Commissioners, do hereby proclaim October 6 – 12, 2002

NOW, THEREFORE, I, Jerry W. Cochrane do urge the people of this community to take advantage of the opportunity to become more aware of this special program which

gives youth the chance to learn together and on their own as part of the Lincoln County 4-H, and to join us in recognizing the unique partnership between our county and our University System.

Jerry W. Cochrane, Chairman

UPON MOTION by Commissioner Choate, the Board voted unanimously to approve the Proclamation.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, September 23, 2002 and the time, which was advertised in the *Lincoln Times-News* on Friday, September 13, 2002, and , September 20, 2002.

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, September 23, 2002, at 6:30 p.m. to consider the following zoning-related matters:

ZTA #430 Lincoln County, applicant. A proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add a definition for "nightclub" and to amend Section 10.11.2 to add "nightclubs" as a use permitted in the General Business (B-G) district subject to the issuance of a conditional use permit and subject to the requirements that no such establishment be located within 200 feet of a church, elementary or secondary school, day care center, public park or residentially zoned property, or within 150 feet of any other such establishment, as measured from the nearest point of each property line.

ZTA #431 Lincoln County, applicant. A proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add definitions for "adult establishment" and "adult cabaret" and to amend Sections 10.11.2 and 10.12.2 to add "adult establishments" as a use permitted in the General Business (B-G) and General Industrial (I-G) districts subject to the issuance of a conditional use permit and subject to the certain requirements, including that no adult establishment be located within 500 feet of a church, elementary or secondary school, day care center, public park or residentially zoned property, or within 1,000 feet of any other adult establishment.

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 Text Amendment No. 430 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 430 – Lincoln County, applicant.

This is a proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add a definition for "nightclub" and to amend Section 10.11.2 to add "nightclubs" as a use permitted in the General Business (B-G) district subject to the issuance of a conditional use permit and subject to the requirements that no such establishment be located within 200 feet of a church, elementary or secondary school, day care center, public park or

residentially zoned property, or within 150 feet of any other such establishment, as measured from the nearest point of each property line.

In the ABC referendum on Sept. 10, Lincoln County voters approved the sale of mixed beverages in hotels, restaurants, private clubs, community theatres and convention centers. This proposed zoning text amendment would regulate the location of for-profit nightclubs, such as a lounge or disco, that qualify under the ABC rules as a private club open to members and guests only. It wouldn't apply to nonprofit organizations such as a fraternal lodge that might obtain an ABC permit.

The regulations also wouldn't apply to restaurants. Under the ABC rules, to qualify as a restaurant, at least 40 percent of the gross receipts must come from the sale of food and nonalcoholic beverages. Restaurants are a permitted use by right in business districts. They have a right to be accommodated under zoning notwithstanding the fact that they may obtain an ABC permit. For similar reasons, the regulations wouldn't apply to sports clubs – golf courses, for example.

The proposal is based on regulations adopted by other local governments. It would limit the places where nightclubs could be located and provide a buffer between nightclubs and neighborhoods. By making nightclubs a conditional use, it would allow the Planning Board and Board of Commissioners to review proposals and hear input from the public to determine whether a permit should be issued and whether other conditions should be imposed.

Following is the full text of the proposed amendment and the definitions from N.C.G.S. 18B-100 for private clubs, restaurants, etc.

ZTA#430

Amend Section 2.4 to add this definition:

Nightclub

An establishment operated for profit that serves alcoholic beverages and provides entertainment. Excluded from this definition are restaurants, hotels and sports clubs that meet the requirements established in N.C.G.S. 18B-1000.

Amend Section 10.11.2 (conditional uses in the B-G district) to add:

Nightclubs, subject to the following requirements:

1) No such establishment shall be located within two hundred (200) feet of a church, elementary or secondary school, day care center, public park, or residentially zoned property, as measured from the nearest point of each property line.

2) No such establishment shall be located within 150 feet of any other such establishment as measured from the nearest point of each property line.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 430 – Lincoln County, applicant.

Bill Beam, Chief Deputy, stated that 200 feet is a short distance from schools and churches. He suggested 1000 feet instead.

Craig Wyant asked which rules will apply to the ETJ zone.

Mr. Hawkins stated that the City rules will apply and the City is looking at similar regulations.

Commissioner Anderson suggested a 500 foot prohibition on churches, elementary or secondary schools, day care centers, public parks and a 250 foot restriction on residentially zoned property.

Chairman Cochrane suggested adding libraries to the list of places with the 500 foot setback.

Kelly Atkins stated that if it would be possible, they would like to go ahead and get this approved, bringing back a text amendment at the next meeting. This way something will be in place.

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

Zoning Text Amendment No. 431 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 431 – Lincoln County, applicant.

This is a proposal to amend Section 2.4 of the Lincoln County Zoning Ordinance to add definitions for “adult establishment” and “adult cabaret” and to amend Sections 10.11.2 and 10.12.2 to add “adult establishments” as a use permitted in the General Business (B-G) and General Industrial (I-G) districts subject to the issuance of a conditional use permit and subject to the certain requirements, including that no adult establishment be located within 500 feet of a church, elementary or secondary school, day care center, public park or residentially zoned property, or within 1,000 feet of any other adult establishment.

With the passage of the ABC referendum, it’s time for Lincoln County to consider adopting zoning regulations regarding adult establishments. Other local governments, including the City of Lincolnton, already have rules in place as a safeguard. This proposal is modeled in large part on Lincolnton’s regulations.

Under North Carolina law, “adult establishments,” or sexually oriented businesses, include adult bookstores, adult movie theaters, and topless bars and strip clubs.

Why do we need to allow these types of businesses at all? We could one day be facing a lawsuit if we don’t. Except for obscene materials, sexually oriented books, magazines and videos are protected by the First Amendment. As a form of expression, exotic dancing is also protected. For this reason, local governments cannot prohibit adult establishments.

Cities and counties can, however, regulate the location of adult establishments through zoning. Separation rules – requiring adult establishments to be located a specified

distance from residential areas, churches, schools, etc. – are defensible if they are reasonable. There must be actual sites available on the open market.

That’s why the proposed text amendment would permit adult establishments as a conditional use in the General Industrial district as well as in the General Business district. With a 500-foot separation rule, there are only a couple of potential sites in the General Business district. With the General Industrial district, there are a few more possible areas where a site might be available. (One note: If the proposed nightclub regulations are approved along with this proposal, a strip club could be located in the General Industrial district but it couldn’t serve alcoholic beverages.)

Why shouldn’t we wait until a prospective adult business requests a zoning permit before amending the ordinance? It would be better to have strong requirements in place beforehand. (An owner of an adult bookstore has already made an inquiry). Otherwise, it could look like we’re adopting regulations to prevent an owner from opening a business. Another possibility: Someone could open an adult book store, claiming it’s allowed under the zoning ordinance as “retail sales” – similar to what happened with the tattoo parlor.

The proposed amendment would make it clear that an adult establishment is allowed only as a conditional use. It would limit the locations available for adult establishments, but a prospective business would have some options – and no grounds for a legal challenge.

Following is the full text of the proposed amendment and the definitions from N.C.G.S 14.202-10 of adult establishments.

ZTA #431

Amend Section 2.4 to add these definitions:

Adult Establishment

Any place as defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time, including Adult Cabaret. However, this provision shall not pertain to any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or similar health-related business.

Adult Cabaret

Any place featuring topless dancers, strippers, go-go dancers, male or female impersonators, or entertainers displaying “Specified Anatomical Areas” as defined by N.C.G.S. 14-202.10.

Amend Section 10.11.2 (conditional uses in the B-G district) and Section 10.12.2 (conditional uses in the I-G district) to add:

Adult establishments, subject to the following requirements:

1) No adult establishment shall be located within 500 feet of a church, elementary or secondary school, day care center, public park or playground, or residentially zoned property, as measured from the nearest point of each property line.

2) No adult establishment shall locate within 1,000 feet of any other adult establishment as measured from the nearest point of each property line.

3) No more than one adult establishment shall be located within the same structure, or portion thereof.

4) No other principal or accessory use may occupy the same structure, property, or portion thereof with any adult establishment.

5) No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

6) Irrespective of the sign regulations contained in Chapter 13, no ground-mounted or free-standing signs for adult establishments shall be permitted. Wall signs shall not exceed 100 square feet in aggregate area. In no case, shall signage cover more than ten percent of the area of any wall.

7) Screening in the form of a Grade A screen shall be provided on the lot.

8) The Board of Adjustment shall have no authority to modify or grant variances from the separation requirements herein listed.

Chairman Cochrane opened the Public Hearing concerning Zoning Text Amendment No. 431 – Lincoln County, applicant.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing closed.

Commissioner Anderson suggested not allowing these establishments within 1000 feet of schools, etc., and not within 500 feet of residential.

Commissioner Saine suggested limiting the operating hours of these establishments.

Urgent Repair Program – Jeff Vernon: Jeff Vernon, Plans Reviewer, presented the Board with information concerning the Urgent Repair Program (URP) Grant. The Issuing Authority for these funds is the NC Housing Finance Authority. The amount is \$75,000 with no matching funds required, which will be distributed at \$3,500 per house maximum to houses meeting the requirements. The grant is for emergency repairs, handicap accessibility modifications, or lead-based paint abatement on single family owner-occupied homes – including mobile homes. At least 70% of the recipients have to have an income that is 30% of the median income for this area, which is almost \$12,000 for a one person household.

The deadline for application is September 30, 2002 and a \$50 non –refundable application fee must be included.

Benchmark, LLC has offered to prepare the application and submit it with the stipulation that they would administer the grant if we are awarded it. Their usual fee is approximately 10% of the award amount and will be collected with the completion of each house from the grant funds.

This money can cover roofs, water taps (for problem wells), air conditioning, heating, etc.

Susan McCracken stated that they have numerous families who can apply for these funds to make their homes safe. Social Services can then provide more services once the homes are safe.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the request for the Grant.

ABC Discussion: Jeff Taylor, County Attorney, presented the following decisions to be made by the Board Regarding the ABC Board.

1. Adopt a resolution creating the Lincoln County Alcoholic Beverage Control Board.
2. Appoint three members to the ABC Board.
 - N.C.G.S. 18B-700(d) says members shall be appointed “on the basis of the appointees’ interest in public affairs, good judgement, knowledge, ability, and good moral character.”
 - County Commissioners are prohibited from serving on the ABC Board. Section 2R.1008(e) of the North Carolina Administrative Code states that “no member of the local board shall be a member of the appointing authority that appoints the local board while serving as a member of the local board.
 - N.C.G.S. Section 18B-201 prohibits appointing certain individuals if they or close relatives “have or control, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit.”
 - One appointee to the initial board is to serve a three year term, one a two year term, and one a one year term. When those terms expire, new appointments will be for three-year terms.
3. Designate one of the initial appointees as chairman.
4. Determine salary (if any) of ABC Board members.
5. Set any policies for ABC Board members to follow (such as conflict of interest policies, reimbursement for expenses on official travels, etc.)

Once appointed, the ABC Board members are responsible for most other decisions with respect to the operation of the ABC system, including hiring of staff.

Commissioner Craig suggested adding to the resolution that members can serve no more than 6 years. He also suggested having one member from east, one from central, and one from west.

Commissioner Anderson stated that the people from Raleigh really stressed that it is very important that members have retail experience.

Jeff Taylor stated that they people from Raleigh also said that the appointees should either be retired or have a lot of free time, due to the amount of time needed in starting up the Board.

The Board deferred this item until the next meeting.

Authorizing Resolution for Supplemental Grants Program – Steve Gilbert: Steve Gilbert stated that Lincoln County, with the assistance of WK Dickson & Co., plans to make application to The Rural Center for Supplemental Grants for construction of a 750,000 gallon Elevated Storage Tank on Car Farm Road in the central pressure zone of the County water system and for a 3 ½ mile water line extension along Cat Square Road in order to connect to the City of Hickory/Catawba County water system. As part of their review of the application, The Rural Center requires that the County provide a copy of a Resolution authorizing submittal of the applications and confirming the commitment of the local matching funds. The Grant amount, if the application is successful, will be \$400,000.00 for each project, and the local match must be 50% of that amount, or \$200,000.00. The estimated cost of the tank is approximately \$1,150,000.00 and the estimated cost of the water line extension is approximately \$800,000.00.

Mr. Gilbert presented Authorizing Resolutions for the Board's approval.

AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE APPLICANT
Supplemental Grants Program

WHEREAS, The 1998 Critical Needs Bond Act has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, Lincoln County has need for and intends to construct or rehabilitate a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as a water supply interconnection, and

WHEREAS, Lincoln County intends to request grant assistance from the Supplemental Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That Lincoln County will arrange financing for all remaining costs of the project, if approved for a grant.

That Lincoln County will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Jerry W. Cochrane, Chairman, and successors so titled, is hereby authorized to execute and file an application on behalf of Lincoln County with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That Jerry W. Cochrane, Chairman, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Lincoln County has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the _____ day of September 2002, at Lincolnton, North Carolina.

Jerry W. Cochrane, Chairman

ATTEST:

Clerk

AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE APPLICANT
Supplemental Grants Program

WHEREAS, The 1998 Critical Needs Bond Act has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, Lincoln County has need for and intends to construct or rehabilitate a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as an elevated water tank, and

WHEREAS, Lincoln County intends to request grant assistance from the Supplemental Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That Lincoln County will arrange financing for all remaining costs of the project, if approved for a grant.

That Lincoln County will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Jerry W. Cochrane, Chairman, and successors so titled, is hereby authorized to execute and file an application on behalf of Lincoln County with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That Jerry W. Cochrane, Chairman, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Lincoln County has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the _____ day of September 2002, at Lincolnton, North Carolina.

Jerry W. Cochrane, Chairman

ATTEST:

Clerk

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Resolutions.

Capital Project Report: Steve Gilbert gave the Capital Project Report for the month, including reports on East Lincoln Water System Improvements, Central Lincoln Water System Improvements, Solid Waste Landfill Water Line, Bethel Church Road Booster Pump Station SCADA System, Governors Island Low Pressure Sewer, North Lincoln High School Pumping Station & Force Main, and Force Main Relocation to Little Egypt Road.

Commissioner Craig gave two situations where water leaks stretched over two months and because of the adjustment policy only one month could be adjusted.

The Board asked staff to research and come back with a revised policy.

Commissioner Anderson asked staff to look at the fact that irrigation taps are not being used due to the restrictions in place, but customers are getting charged the minimum usage fee.

Finance Officer's Report: Leon Harmon gave the Finance Officer's Reports for August, 2002.

Resolution of Support for the NC 73 Transportation Study:

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Resolution.

RESOLUTION OF SUPPORT FOR THE NC 73 TRANSPORTATION/LAND USE STUDY

WHEREAS, NC 73 is a major thoroughfare that connects Lincoln, Mecklenburg, and Cabarrus Counties; and

WHEREAS, NC 73 is a vital connector for local residential, commercial and industrial development; and,

WHEREAS, that portion of NC 73 between NC 27 and I-85 traverses through eight local jurisdictions (Lincoln County, Mecklenburg County, Cabarrus County, Huntersville, Cornelius, Davidson, Kannapolis, and Concord), all of which are experiencing significant amounts of population and traffic growth; and

WHEREAS, there is a need to correlate land use and transportation decisions at the local, state and regional levels and to develop a consensus on multi-modal TIP improvements along the Corridor; and

WHEREAS, a NC 73 Corridor Transportation/Land Use Study is viewed as the most efficient means of addressing these issues and developing this consensus.

NOW, therefore, be it resolved, that the (enter name of governing board) of (enter name of jurisdiction) does hereby;

Pledge an amount of ten thousand dollars (\$10,000) towards the NC 73 Transportation/Land Use Study. Such funds, along with like funds generated from the aforementioned local governments along the Corridor, are to be matched by funds from the North Carolina Department of Transportation (NCDOT) for said study.

Adopted on _____

By: _____
Chief Elected Official

Certified by: _____

SEAL

Date: _____

Vacancies: Commissioner Craig presented the following vacancies.

VACANCIES

Nursing and Adult Care Home Community Advisory Committee	6
Lincoln Natural Resources Committee	1 (Realtor)
Library Board	
Lincolnton Township	1
Personnel Board	1

The following are Commissioner Craig's recommendations:

APPOINTMENTS

Appoint Darrell Harkey to the Planning Board for the Ironton Township (Eddie Sigmon's unexpired term)

UPON MOTION by Commissioner Craig, the Board voted unanimously to appoint Darrell Harkey to the Planning Board to the Ironton Township for Eddie Sigmon's unexpired term.

Calendar: Chairman Cochrane presented the calendar for the months of October, 2002.

County Commissioners' Report: Chairman Cochrane stated that he and Tom attended a meeting concerning the Catawba River. He stated that the Duke Manager gave a good presentation and if the drought continues we will be in serious trouble.

Commissioner Craig mentioned the letter from Mayor Huitt about the City contributing to the Water Plant Expansion. He stated that he would like to have a meeting with the full Board of Commissioners and the full City Council.

County Manager's Report: Stan Kiser, County Manager, presented the County Managers Report.

County Attorney's Report: Jeff Taylor stated that he received a message from Verizon last week. They are doing a title search and environmental on this property. They are suspending all negotiations until these are final.

Mr. Taylor stated that there have been 27 foreclosure cases from 1992 filed. These were close to reaching the 10 year mark. Madge Huffman is working on a list of the top 10 biggest offenders to pursue. Hugger's bankruptcy is getting ready to be settled. They owe \$27,000, half to the county and half to the city.

Recommendations from the Planning Board: Randy Hawkins presented the following Planning Board's recommendations.

Zoning Map Amendment No. 425 – Paul Sisk: The Planning Board voted 5 – 0 to recommend approval.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve Zoning Map Amendment No. 425 – Paul Sisk, applicant.

Conditional Use Permit No. 207 – Crystal Smith: Randy Hawkins, Zoning Administrator, stated that the Planning Board voted 5 – 0 to recommend approval.

Application # CUP #207 Date 09/23/02

Applicant's Name Crystal Smith

Applicant's Address 2954 Laboratory Road
Lincolnton, NC

Property location: same as above

Existing Zoning: R-S

Proposed Conditional Use Private residential quarters

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

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO ___
Factual Reasons Cited: Sewer has been approved for structure.
2. The use meets all required conditions and specifications. YES NO ___
Factual Reasons Cited: Inspections have been made.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO ___
Factual Reasons Cited: No objections to request, location is hard to discern from neighboring properties.
2. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO ___
Factual Reasons Cited: Structure would be approved anyway (if it didn't contain living quarters)

UPON MOTION by Commissioner Craig, the Board voted unanimously to concur with the findings of the Planning Board and approve Conditional Use Permit No. 208.

Zoning Map Amendment No. 427 – Brocato LLC: The Planning Board voted 5 – 0 to recommend approval.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to table Zoning Map Amendment No. 427 and request that the developer provide information concerning the setback on the sides and back, the paved area, and the lighting.

Zoning Map Amendment No. 428 – Norman Plantation, Inc: The Planning Board voted 5 – 0 to recommend approval.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve Zoning Map Amendment No. 428 – Norman Plantation, Inc.

Zoning Text Amendment No. 422 – Lincoln County: The Planning Board voted 5 – 0 to recommend approval.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve Zoning Text Amendment No. 422 – Lincoln County.

Zoning Text Amendment No. 430 – Lincoln County: The Planning Board voted 5 –0 to recommend approval and instruct staff to bring back an amendment.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve Zoning Text Amendment No. 430 – Lincoln County, applicant.

Zoning Text Amendment No. 431 – Lincoln County: The Planning Board voted 5 – 0 to recommend approval and instruct staff to bring back an amendment.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve Zoning Text Amendment No. 431 – Lincoln County, applicant.

Recess: **UPON MOTION** by Commissioner Saine, the Board voted unanimously to recess until October 2, 2002 at 4:00 PM.

Amy S. Long, Clerk to the Board

Jerry W. Cochrane, Chairman