

**IREDELL COUNTY BOARD OF COMMISSIONERS  
REGULAR MINUTES  
DECEMBER 18, 2001**

The Iredell County Board of Commissioners met in Regular Session on Tuesday, December 18, 2001, at 7:00 p.m., in the Iredell County Government Center, 200 South Center Street, Statesville, NC.

Present: Chairman Sara Haire Tice  
Vice Chairman Karen B. Ray  
Tommy E. Bowles  
Steve D. Johnson  
R. Godfrey Williams

Staff Present: County Manager Joel Mashburn, County Attorney William P. Pope, Planning Supervisor Ron Smith, Enforcement Captain Mike Phillips with the Sheriff's Department, Finance Director Susan Blumenstein, and Clerk to the Board Jean Moore.

**CALL TO ORDER** by Chairman Tice.

**INVOCATION** by Commissioner Bowles.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**ADJUSTMENTS OF THE AGENDA:** **MOTION** by Chairman Tice to adjust the agenda by adding the following:

*Request for Approval of a Resolution and Memorandum of Understanding Regarding the North Carolina Debt Setoff Clearinghouse Program.*

VOTING: Ayes – 5; Nays – 0.

**APPOINTMENTS BEFORE THE BOARD**

**Marsha Powers (184 Powers Hill Drive, Mooresville, NC) along with Mike and Ann Holtzclaw (445 Patterson Farm Road, Mooresville, NC) Spoke Regarding a Noise Problem:** Mrs. Powers said she and her husband owned 35 acres of land, and the Holtzclaw couple owned 11 acres. She said that even with this acreage they were harassed by noise. Powers said the adjoining property owner (William Wilkinson), leased his property to a model airplane club (RC Wingers). Powers said the models could be as large as eight feet in length and could reach speeds up to 200 mph. Mrs. Powers said the club consisted of about 35 members and they flew their planes from 8 a.m. through 8:30 p.m., during the summer months. Powers said the club previously operated in Rowan County, but due to a lawsuit, the members moved to Iredell County. Along with the noise problems, Mrs. Powers cited safety concerns. She said that with dry weather conditions, the planes could easily crash and start a fire in a nearby patch of pine trees or in the roof of one of their homes. Powers said that even worse, bodily harm or fatal injuries could occur.

Mrs. Powers said the harassment was not just the noise. She said the members "dive bombed" vehicles, stalled the planes in midair, creating even more noise, and they had other annoying antics. Powers said the sheriff's department was trying to use the county's noise ordinance to remedy the problem; however, the district attorney said the ordinance was not enforceable. Mrs. Powers said she and Mr. and Mrs. Holtzclaw were asking the commissioners to find a way to make the ordinance enforceable. She also asked for the county to expand the zoning requirements for the club. Powers said that when the members were told they needed a special use permit to operate as a club, they removed their club sign.

Mrs. Holtzclaw said she had owned homes on the east and west coasts, and she had never encountered anything like the situation. She said that for the past six months, the club had continually harassed them. Holtzclaw said many steps had been taken to resolve the issue, both on a personal and legal basis. She said an attorney sent a letter to the club, but the harassment became worse. Holtzclaw said the attorney stated he could file a summary brief for \$10,000 and take the club members to court; however, Mrs. Holtzclaw questioned why she and the Powers couple had to pay to find peace and quiet. She said the club members left their homes, where they probably had peace and quiet, flew their planes near her property, and then left. She said Mecklenburg County provided a space for model airplane flyers to congregate, and she understood the City of Statesville also provided a site.

Holtzclaw then showed a video of the planes. She said the club had a mobile home on the site that served as a clubhouse.

Enforcement Captain Mike Phillips, with the Sheriff's Department, said he had met with the club members. He said the club members guaranteed they would move the runway approximately 200 yards. Phillips said this was last summer, and the club members had not complied. Mr. Phillips said the sheriff's department was more concerned about safety issues than the noise. He said that according to information from the district attorney, the sheriff's department could not do anything unless one of the members was actually caught with the plane's controls. Phillips said the Attorney General's Office had indicated the situation, at the present, was a civil problem and not a criminal matter. Mr. Phillips said the sheriff's department had tried to mediate with the club, but the members were not cooperating.

Commissioner Bowles said he was familiar with the area. He asked Detective Phillips who owned the air space above the Holtzclaw and Phillips' properties.

Phillips said the only ruling the District Attorney's office had given was that there was a definite violation of the noise ordinance. Mr. Phillips said it was unclear, however, as to whom should be charged with the violation. He said the club could possibly be charged; however, the members had "done away" with the club charter. Phillips said the ownership of the air space had already been reviewed.

Planning Supervisor Ron Smith said he had asked his staff to re-review the special use permit criteria. He said that if a permit were granted, it would really not help the families. Smith said this was because there was only a 50-foot setback.

Attorney Pope asked the penalty for using the property without a permit.

Smith said it would be a general zoning violation. He said there would be a civil citation process with an initial \$100 charge. Smith said that after this, the violators would be taken to court. He said, "We are in that process now."

Pope said he assumed this applied to the property owner, regardless of whether or not there was a club.

Smith said this was correct.

The commissioners briefly discussed a noise ordinance amendment; however, Attorney Pope said he didn't know what type of activity the board wanted to restrain. He said one way that might be available to improve the situation was through zoning regulations. Pope said the board might also be able to use "general police power" to prohibit the model aircraft flying. He said there might be state and federal regulations that regulated the activity, and if so, these would take precedence over anything the county imposed.

Commissioner Bowles said that if a more stringent ordinance were written, it would apply to the entire county. He said the good and the bad model airplane flyers would be affected.

Pope said the special use permit process could be written to be applicable to the owner of the property. Attorney Pope said he would be glad to work with the planning/zoning department. He said he would also research the police power method.

Commissioner Bowles said he would visit the site and talk to the club members about the situation.

## **PUBLIC HEARING**

Chairman Tice declared the meeting to be in a public hearing.

**Proposed Ordinance Designating Structures and Property known as the Albert Hill Setzer House located at 1262 East Monbo Road in the Fallstown Township, Iredell County, North Carolina as Historic Property:** Lewis Alexander, the Chairman of the Iredell County Historic Properties Commission, said everything was in order to approve the Albert Hill Setzer House as a county historic site. Alexander said the 1887 structure was unique in architectural design. He said the owner, Mrs. Joanna Cornelius Lloyd, had requested the designation. Alexander said all of the criteria established by the North Carolina Department of Cultural Resources, the State Preservation Office, as well as the county's requirements, had been met. Mr. Alexander said the findings set the groundwork for the property to be included in the National Registry. He

said the designation would give the Historic Properties Commission the design and review authority over the structure -- any additions/changes would have to be reviewed in the future. Alexander said that if the changes were approved, a Certificate of Appropriateness would be issued. Mr. Alexander said that if the board of commissioners granted the designation, the five-acre tract, containing the house and out-buildings, would be eligible for a fifty percent property tax deferral, if requested by the owner.

No one else spoke, and Chairman Tice adjourned the hearing.

**MOTION** by Commissioner Bowles to grant the approval of the Ordinance Designating the Structures and Property known as the Albert Hill Setzer House as a County Historic Property.

VOTING: Ayes – 5; Nays – 0.

The adopted resolution is as follows.

**AN ORDINANCE DESIGNATING STRUCTURES AND PROPERTY  
KNOWN AS THE  
ALBERT HILL SETZER HOUSE LOCATED AT 1262 EAST MONBO ROAD IN THE  
FALLSTOWN TOWNSHIP, IREDELL COUNTY, NORTH CAROLINA, AS  
HISTORIC PROPERTY**

WHEREAS, all the prerequisites to the adoption of this ordinance prescribed in Part 3C Article 19, Chapter 160A-400.6 and 400.5 of the North Carolina General Statutes have been met; and

WHEREAS, the Board of County Commissioners has taken into full consideration all statements and information presented at the joint public hearing with the Iredell Historic Properties Commission on the 18th day of December 2001, on the question of designating the Albert Hill Setzer House with five (5) acres of land containing barns and outbuildings as outlined on the Iredell County Tax Map, as Historic Property; and

WHEREAS, the Iredell Historic Properties Commission has demonstrated the historic significance of the building and property; and

WHEREAS, the Division of Archives and History of the North Carolina Department of Cultural Resources has endorsed the finding of the Iredell Historic Properties Commission.

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

1. That the structure and surrounding property at 1262 East Monbo Road, known as the Albert Hill Setzer House, Fallstown Township, Iredell County, North Carolina is hereby designated as historic property pursuant to Chapter 160-A 400.6 and 160-A 500.5 of the General Statutes of North Carolina. This property is currently owned by Joanna Cornelius Lloyd, 1021 Windsor Drive, Asheville, North Carolina, 28803.

For purposes of description only, the location of said property and structure is noted as being situated on a tract of property more specifically described in Deed Book 672, page 232, and Book 672, page 192, of the Iredell County Registry. Both tracts have been combined as one by the owner.

2. That the said buildings and property which has been designated as historic property may be materially altered, restored, moved or demolished only following the issuance by the Iredell Historic Properties Commission of a certificate of appropriateness or the lapse of one year in accord with the procedures of Sec. 10-176 of the Historic Properties Ordinance.

3. That nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on the said structure or property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition, relocation, or removal of any such feature when a building inspector or similar official certifies to the commission that the action is required for the public safety because of an unsafe condition. Nothing herein shall be construed to prevent the property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.

4. That a suitable sign shall be posted indicating the said structure and properties' designation as historic property and containing any other appropriate information. If the owner objects, the sign shall be placed on a nearby public right of way.

5. That the owner of the structure and property known as the Albert Hill Setzer House be given notice of this ordinance as required by applicable law and copies of this ordinance be filed and indexed in the Offices of the County Clerk, Iredell County Register of Deeds, Building Inspections Department, and County Assessor, as required by applicable law.

**ADMINISTRATIVE MATTERS**

**Announcement of Dates for the Board Members to Visit Public Library Facilities Designed by Architectural Firms being Considered for Iredell County’s New Library:** Chairman Tice announced that the board members would travel to the following destinations to visit two library facilities.

Saturday, January 12, 2002 - Lexington County Main Library, located in Lexington, South Carolina, designed by Craig Gaulden Davis.

Saturday, January 26, 2002 - Catawba County Library (Patrick Beaver Memorial Library), located in Hickory, NC, designed by Calloway Johnson Moore West.

**Discussion/Approval of the American Institute of Architects (AIA) Contract with MBAJ Architecture for the Design Work on the Iredell County Government Center-South:** Support Services Director Jim Vernon, during the briefing session, distributed the following statement of probable costs concerning the renovation of the former hospital facility located in Mooresville, NC.

**Iredell County Government Center- South  
Statement of Probable Cost**

				Total Project
<u>Sitework:</u>				
Assumption for sally-port			\$15,000	
Loading dock/judges exterior security			15,000	
Sub-Total				\$30,000
<u>Building: First Floor Renovations</u>				
	Square Footage	\$/SF		
New Courts Facility	7450	\$55	409,750	
Probation/Parole Offices	4160	30	124,800	
Sheriff Dept. Offices	1870	30	56,100	
Health Dept.	6150	30	184,500	
Mental Health	3500	30	105,000	
VA	450	30	13,500	
Commons/circulation areas	5900	25	147,500	
Total Area Phase One	29480			
Sub-Total				\$1,041,150
<u>Contingency:</u>				
Sitework & Building	10%		107,100	
Hazardous materials assumption			75,000	
Sub-Total				\$182,100
<u>CONSTRUCTION SUB-TOTAL</u>				\$1,253,250
<u>NON-CONSTRUCTION</u>				
Survey/Selective exterior spot elevations			2,000	
Existing interior systems evaluation:				
Plumbing, HVAC, Electrical, Data, Voice, Fire Alarm & Sprinkler			13,500	
Minor On-Site Civil Engineering			3,000	
Architectural Fee			127,500	
Plumbing & HVAC			29,150	
Electrical: power, lighting, fire alarm, voice & data infrastructure			16,500	
Fire Protection			3850	
Cost Estimating			10,000	
Reimbursables – 25 bid sets			15,000	
TOTAL A/E LUMP SUM FEE			220,500	
Construction Testing: If required, coordinated by General Contractor (reviewed & approved by architect and paid direct by owner)			5,000	
Non-construction contingency; minor structural (if required), & bid sets over 25 & misc.			21,250	
<u>NON-CONSTRUCTION SUB-TOTAL</u>				246,750
<b>PROJECT TOTAL</b>				<b>\$1,500,000</b>

Vernon said he was asking the board to approve Martin Boal Anthony & Johnson's lump sum bid of \$220,500 for architectural and engineering fees. He said the amount was higher than what would normally be required on a new construction project, but it was important to know the conditions of the building before construction started. He said that much of the work "formed a basis for the renovation of the entire building." Mr. Vernon said that if one spread out the additional costs over what would typically be budgeted for the renovation of a 90,000 sq. ft. building, then the percentage basis came down. He said the charges were based upon a task related assessment -- the number of hours that would be required to perform the services.

Commissioner Johnson noted the non-construction costs had an evaluation of the plumbing, HVAC, electrical, data, voice, fire alarm and sprinkler system in the amount of \$13,500. He said there was another charge of \$29,150 for plumbing and HVAC. Johnson said he understood the \$13,500 was to evaluate the existing systems, and the other charge was included to design any new components that might be needed. He asked if this was correct.

Vernon said yes. He said the costs were to adapt the existing HVAC systems to some newly created spaces. Vernon said some walls would be changed -- some new spaces would be created within the footprint of the building.

Commissioner Ray said she understood that some of the costs were in preparation of the entire 90,000 sq. feet -- not just the first floor.

Vernon said this was correct. He said accessibility to the entire building, and all of the building's infrastructure systems, would be reviewed in terms of utilizing the complete structure.

Commissioner Johnson said that if the request were approved, the county would be spending a quarter of a million dollars just to evaluate the systems of a building that was four times the size needed. He said the greatest percentage of the costs would not have to be spent if the county built a building to meet its needs. Johnson said the county was evaluating a building just to see if it was suitable. He said he understood that some of the costs were applicable to all four floors, but three floors were not needed.

**MOTION** by Commissioner Johnson to deny the request to approve the contract with Martin Boal Anthony and Johnson.

VOTING: Ayes – 1 (Johnson); Nays – 4.

**MOTION** by Commissioner Ray to approve the contract with Martin Boal Anthony and Johnson and to amend the Capital Projects Ordinance by transferring \$220,500 from Capital Reserve into the Capital Projects Fund and that once the county obtained the financing for the renovation and construction, a reimbursement be made to the Capital Reserve Fund.

Commissioner Johnson said that at no time, during the course of the debate, had he ever said that additional space was not needed in Mooresville. He said additional space was needed, but he felt there were better options than buying the former hospital building.

VOTING: Ayes – 4; Nays – 1 (Johnson).

**Request for the Confirmation or Appointment of a Delegate & Alternate Delegate for the Centralina Council of Government's Executive Board:** Chairman Tice said that at the present time Commissioner Ray served as the delegate, and Commissioner Johnson was the alternate for Centralina's Executive Board. (Ray and Johnson were both agreeable to continue in their roles as the delegates.)

**MOTION** by Chairman Tice to appoint Karen B. Ray as the Delegate for the Centralina Council of Government's Executive Board and to appoint Steve D. Johnson as the Alternate Delegate.

VOTING: Ayes – 5; Nays – 0.

-----CONSENT AGENDA-----

**MOTION** by Commissioner Ray to approve the following three (3) consent agenda items.

VOTING: Ayes – 5; Nays – 0.

**1. Request for Approval of the November Refunds & Releases**

Releases for the Month of November 2001 \$41,032.61

County	29,038.50
Solid Waste Fees	364.00
E. Alexander Co. Fire #1	18.13
Shepherd's Fire #2	124.84
Mt. Mourne Fire #3	17.10
All County Fire #4	2,064.93
Statesville City	1,351.43
Statesville Downtown	-
Mooresville Town	6,131.95
Mooresville Downtown	-
Mooresville School	1,532.34
Love Valley	-
Harmony	42.43
Troutman	346.96

Refunds for the Month of November 2001 1,045.55

County	930.43
Solid Waste Fees	1.00
E. Alexander Co. Fire #1	-
Shepherd's Fire #2	48.33
Mt. Mourne Fire #3	-
All County Fire #4	-
Statesville City	12.30
Statesville Downtown	-
Mooresville Town	53.49
Mooresville Downtown	-
Mooresville School	-
Love Valley	-
Harmony	-
Troutman	-

**2. Request for Approval of the December 4, 2001 Minutes with one Correction Noted** (addition of Cindy Andrews to the Nursing Home Advisory Committee).

**3. Request for Approval of a Resolution to Adopt a North Carolina Local Government Debt Setoff Program and to Designate Brent Weisner as the Hearing Officer:** The following resolution was adopted.

North Carolina Local Government Debt Setoff Program

WHEREAS, NCGS Chapter 105A, Setoff Debt Collection Act, authorizes the North Carolina Department of Revenue to cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the Department of Revenue; and

WHEREAS, the law authorizes the setting off of certain debts owed to local governments against tax refunds; and

WHEREAS, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities have jointly established a clearinghouse to submit debts on behalf of Iredell County, as provided by law.

NOW THEREFORE, BE IT RESOLVED by the Iredell County Board of Commissioners, that Iredell County will participate in the debt setoff program and hereby designates County Assessor Brent Weisner as the person to hold hearings and conduct the necessary proceedings.

The Chairman of the Iredell County Board of Commissioners and the Iredell County Manager are hereby authorized to execute such documents and agreements as necessary to participate in the debt setoff program.

Adopted this the 18<sup>th</sup> date of December 2001.

-----END OF CONSENT AGENDA-----

**ANNOUNCEMENT OF VACANCIES OCCURRING ON BOARDS & COMMISSIONS  
Juvenile Crime Prevention Council (3 announcements)**

**APPOINTMENTS TO BOARDS & COMMISSIONS**

**Adult Care Home Community Advisory Committee (6 appts.):** No nominations were submitted, and Chairman Tice **moved** to postpone the six appointments until the January 8 meeting.

VOTING: Ayes – 5; Nays – 0.

**Board of Health (5 appts.):** Commissioner Bowles **moved** to appoint Steve Knight (engineer), Dr. Ron Milam (optometrist), Mike Eudy (pharmacist) and to postpone the appointments of the nurse and veterinarian until the January 8 meeting.

VOTING: Ayes – 5; Nays – 0.

**Board of Equalization and Review for Year 2002 (6 appts.):** Commissioner Williams nominated Wayne Robertson.

Chairman Tice nominated Dan Schmidt, John Douglas, L.W. Lambert, Anita Johnson, and William White (alternate).

No further nominations were submitted, and Chairman Tice **moved** to appoint Robertson, Schmidt, Douglas, Lambert, Johnson and White by acclamation.

VOTING: Ayes – 5; Nays – 0.

**Election of Chairman and Vice Chairman for the Board of Equalization and Review**

Commissioner Johnson nominated Dan Schmidt for the Office of Chairman for the Board of Equalization and Review.

No other nominations were submitted, and Chairman Tice **moved** to close the nominations and to elect Schmidt as the Chairman of the Board of Equalization and Review.

VOTING: Ayes – 5; Nays – 0.

Commissioner Bowles nominated John Douglas for the Office of Vice Chairman for the Board of Equalization and Review.

No other nominations were submitted, and Chairman Tice **moved** to close the nominations and to elect Douglas as the Vice Chairman for the Board of Equalization and Review.

VOTING: Ayes – 5; Nays – 0.

**Home and Community Care Block Grant Committee (5 appts.):** Commissioner Bowles nominated Mary Joe Danner.

Chairman Tice nominated Dot Blackwelder, Lucille Carter, Ethel Rash, and Barbara Barrier.

No other nominations were submitted, and Chairman Tice **moved** to appoint Danner, Blackwelder, Carter, Rash, and Barrier by acclamation.

VOTING: Ayes – 5; Nays – 0.

**Information and Referral Advisory Board (1 appt.):** Commissioner Bowles nominated Norma Rife.

Chairman Tice moved to close the nominations and appoint Rife by acclamation.

VOTING: Ayes – 5; Nays – 0.

**Recreation Advisory Committee (5 appts.):** Commissioner Johnson nominated Larry Johnson, Donna Crabtree, and Barbara Thorson. Mr. Johnson advised that Jim Kay was still considering the acceptance of a reappointment. (Kay will give his response in the next few days.)

No other nominations were submitted, and Chairman Tice moved to appoint L. Johnson, Crabtree, Thorson, and to postpone the appointments of the two remaining members until the January 8 meeting.

VOTING: Ayes – 5; Nays – 0.

**NEW BUSINESS:** Chairman Tice announced that Loren Powell, the former mayor of Troutman had passed away on December 17, 2001. Tice said Mr. Powell had been a true asset to the Town of Troutman and Iredell County.

**COUNTY MANAGER’S REPORT:** Mr. Mashburn distributed a draft agenda for the Winter Planning Session. He requested the board members to notify him of any additions or changes.

**CLOSED SESSION:** Citing G.S. 143-318.11 (a) (5) - Property Acquisition, Chairman Tice moved to enter into closed session at 8:30 p.m.

(Return to Open Session at 8:50 p.m.)

**ADJOURNMENT:** MOTION by Chairman Tice to adjourn the meeting at 8:50 p.m. **NEXT MEETING:** Tuesday, January 8, 2002, 5:00 p.m. and 7:00 p.m., in the Iredell County Government Center, 200 South Center Street, Statesville, NC.

VOTING: Ayes – 5; Nays – 0.

Approved: \_\_\_\_\_

\_\_\_\_\_  
Clerk to the Board