

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND

Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce
Town of Eastover

AGENDA

MARCH 18, 2008

7:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. APPROVAL OF/ADJUSTMENTS TO AGENDA
- III. PUBLIC HEARING DEFFERRAL/WITHDRAWAL
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS
- VI. APPROVAL OF THE MINUTES OF MARCH 4, 2008
- VII. PUBLIC HEARING CONSENT ITEMS

REZONING CASES

- A. **P08-13:** INITIAL ZONING OF 0.98+/- ACRES TO R15 OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 737 AND 739 BLAWELL STREET, OWNED BY DWAYNE MAXWELL, INCORPORATED.
- B. **P08-14:** REZONING OF 10.57+/- ACRES FROM R10 TO R5A OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE WEST SIDE OF SOUTH PINE TREE LANE, SOUTH OF SPRING AVENUE, SUBMITTED BY DENVER LEE MCCULLOUGH FOR GEORGE YASMINE, OWNED BY MCCORMICK FARMS LTD.

CONDITIONAL USE DISTRICT AND PERMIT

- A. **P08-10:** REZONING OF 166+/- ACRES FROM A1 AGRICULTURAL DISTRICT TO A1/CUD CONDITIONAL USE DISTRICT, ADDITION TO AN EXISTING ADJACENT QUARRY, AND THE PERMIT OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE SOUTH SIDE OF RIVER ROAD, NORTHEAST OF GAME ROAD; SUBMITTED BY GARY T. BIZZELL, PRESIDENT, AMERICAN MATERIALS COMPANY, L.L.C.; OWNED BY FORKS, L.L.C.
- VIII. CONTESTED PLATS & PLANS
 - A. **CASE NO. 08-033:** CONSIDERATION OF A WAIVER FOR THE BOBBY GLEN JACKSON PROPERTY, SUBDIVISION REVIEW, SECTION 4.2.C, PRIVATE

STREETS, COUNTY SUBDIVISION ORDINANCE, REQUEST FOR APPROVAL OF A NINTH LOT TO BE SERVED BY A CLASS C PRIVATE STREET; ZONING: A1; TOTAL ACREAGE: 2.65 +/-, LOCATED ON THE SOUTH SIDE OF LINA DRIVE, SOUTH OF SR 1848 (FAIRCLOTH BRIDGE ROAD).

IX. DISCUSSION

X. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

XI. ADJOURNMENT

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MINUTES March 4, 2008

Members Present

Mr. Donovan McLaurin, Chair
Mrs. Lori Epler, Vice-Chair
Mr. Clifton McNeill
Mrs. Patricia Hall
Mr. Garland Hostetter
Mr. Harvey Cain, Jr.
Mr. Benny Pearce
Mrs. Sara Piland
Mr. Roy Turner
Mr. Charles Morris

Others Present

Mr. Thomas Lloyd, Director
Ms. Patricia Speicher, Land Use Codes
Mr. Grainger Barrett, County Attorney
Commissioner Diane Wheatley
Mrs. Laverne Howard
Mr. Cecil Combs

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Wheatley delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF THE MINUTES OF FEBRUARY 19, 2008

A motion was made by Mrs. Piland, seconded by Mr. Morris, to accept the February 19, 2008 Board minutes as submitted. Unanimous approval.

III. PLANNING BOARD ITEM

Public comment period opened:

Mr. Barrett stated "I was asked to participate in a conference call with Commissioner Henley and Mayor Chavonne, and I have been charged with presenting to everybody some adjustments that those parties believe are appropriate to the agreement that was sent out with the agenda".

The first adjustment to the document will be deleting references to the Rural Area; the Rural Area had been defined as the area outside the Sewer Service Area. There was concern that it was overly expansive and extended the reach of this agreement into areas that were purely County concern. Deleting the references to the Rural Area is intended to be responsive to those

concerns, and to revert the zoning and subdivision aspects in those areas to a sentence in this agreement that says “if it’s not specifically addressed in this agreement, the County standards, ordinances, small area plans, and comprehensive plans shall be followed.” For those who have copies of the document on page two there’s a paragraph 2, subparagraph “a” and “b”. The first sentence, the introductory sentence and subparagraph “a” and “b” should be deleted. Those are the references to the Rural Area. In reference to “No PWC being provided outside the Sewer Service Area except as follows” would make a reference to outside the Sewer Service Area, not in the Rural Area. Mr. Barrett restated the sentence for clarification. One of the concerns that was raised with me was that this document addressed extension of sewer into the Rural Area by PWC, but not by other providers. One of the objectives that’s intended to be met here is that extension of sewer service into the Rural Area by other providers would be governed by County standards. There is a concern raised by a member of the Joint Planning Board in paragraph 3 “a”, that we want to adjust to say “Sewer Service shall be required when density is greater than R20 zoning”; we want to add the phrase “except in existing PND zones.” PND is a holding zone in the County that actually allows development in what we used to call R10 district, we now call R7.5. This is intended essentially to make clear that we’re not intending to down zone PND areas. Even though sewer service, generally in the MIA or in the Sewer Service Area would be appropriate for less than R20 zoning, in PND that’s not going to be effectively down zoned by this agreement and will be allowed to be developed as it could be developed today.

Mr. Morris asked “Instead of being specific to one zoning district, can we not downzone any existing zoning?”

Mr. Barrett stated that what he thinks they were trying to do is outside of the PND zoned areas they were trying to provide that other development would be in conformity with comprehensive planning.

Vice-Chair Epler suggested that the wording say “at no point should a piece of property be developed less than what the current zoning density allowed.”

Mr. Morris agreed with Vice-Chair Epler.

Mr. Barrett stated “To be specific we are talking about property that’s in the Rural Area, what we used to call the Rural Area, right outside the Sewer Service Area”, I will make that change.

Chair McLaurin stated for clarification, “No property outside of the Sewer Service Area should be down zoned.

Vice-Chair Epler said that this document will not require property to be developed at a less dense zoning than it’s currently zoned.

Mr. Barrett said that another concern was the definition of Collector Streets under the paragraph about Sidewalks. The City agrees that the current example of number of residences in units is too low and the staff has some suggestions about addressing that, which they’ll go over tonight. There is a sentence in this agreement that says “for those zoning subdivision and/or development standards not addressed in this Agreement, the County standards shall be followed.” I want to amplify that to say “the County standards, ordinances, small area plans, and comprehensive plans shall be followed.” This emphasizes that unless it’s specifically addressed in this document all of the regular County regulations and plans would be followed, including small area plans.

Mrs. Piland stated that for clarification purposes, her interpretation is by that statement, the Eastover Detailed Land Use Plan would be honored in the Sewer Service Area.

Mr. Barrett stated that the Eastover Small Area Plan would be honored not only in the Sewer Service Area, but in the City MIA. All of these standards would be applied including the Eastover Small Area Plan in the Sewer Service Area. In the City's MIA all rezoning would be under the control of the Board of Commissioners. The Board of Commissioner's would have to follow the Small Area Plan, unless for some reason sufficient to itself, did not follow it. But then they would be legally required to put into record its action and the reasons why it was not following the Small Area Plan. That's a legal requirement that the General Assembly imposed, I think in 2005, on local governments. You either have to follow your Comprehensive Plans or you have to state for the record, why you are not. Usually, the explanation should be a change in circumstances.

Mr. Barrett said he would add a section under paragraph "c", Public Streets, which attempts to address vesting of phased developments. I don't know that we completely have an accord with the City on what this should say, but we believe it should say is that "if a project is developed in the Sewer Service Area in phases under County standards, and if the City's MIA line is later moved to include the development and there is a phase that has not yet been developed, if permits are pulled for that phase and a substantial expenditure is made on reliance of that permit within two years, that phase ought to be able to be developed under County regulations". I'm advised that the City's interpretation may be that everything has got to be done within two years from the date of approval; I don't believe that is appropriate. I believe the North Carolina law would allow: pull a permit and get a substantial start, such as doing grading for instance, or beginning the construction of roads and sewer or water lines, and if you do that within two years, I believe and I think the Joint Planning Board would agree, then that phase ought to be able to be completed fully under County standards.

A comment had been made to me about whether the City had made a commitment to allow 24' wide streets in the City's MIA. There is a reference in this document to 24' wide streets in the Sewer Service Area. The Mayor's response today, was that the City does want to move to allow 24' wide streets in its MIA but it wants to do it through its development and adoption of a Unified Development Ordinance. It has begun that process and wants to go through that process to do that. For that reason-the reason that the City believes it ought to be in its Unified Development Ordinance-they don't want to put it in this document. The City is only saying that they want to do it with the written commitment of putting it in the Unified Development Ordinance, which does not yet exist, but which they say they have begun that process.

There was a concern about the timing of the process for extension of sewer outside of the Sewer Service Area into what we were calling the Rural Area. This document provides that it go to the County/Municipal Planning Commission and then to PWC. If approved by PWC, then goes to the Board of Commissioners. There was an inquiry into whether or not the City had agreed in policy discussions over the last few weeks to say that if the Planning Commission and PWC approvals were not obtained within sixty days that the request would be deemed approved on the sixty-first day. Again, I am a messenger relaying the Mayor's response, which was part of the discussions when the City Council was still part of the flow chart and part of the process. The City representatives believe that they were more than responsive by simply taking the City Council out of the process. I heard a concern that the timing could still be a problem because the Municipal/County Planning Commission would only be scheduled to meet quarterly, although it does say or more often as needed. One way to approach this is simply say that the Commission would have to meet within sixty days and act within sixty days if a quarterly meeting was not scheduled. A Planning Board member has suggested that perhaps the flow chart should be amended so that it doesn't go to a Municipal/County Planning Commission, but

simply to each of the respective City and Joint Planning Board's which do meet every two weeks, or at most every month, and the recommendations forwarded from each of the City and this Board to PWC and then to the Board of Commissioner's. I will leave this issue to the audience to comment on and to the Joint Planning Board to resolve that issue.

I've also been asked about putting an MIA on part of the territory of the Eastover Sanitary District (ESD). My opinion is that simply putting a city MIA on a portion of the Eastover Sanitary District does not adversely affect the Eastover Sanitary District's status under law. Other actions could, but simply putting the MIA on does not. If the MIA were implemented in a certain way, or if the City introduced PWC utility service or requirements to this area, then I think that depending on the facts, that could move towards an adverse action under federal law. Simply putting the MIA on, to me, seems to be not an adverse action under federal law. I want to repeat my comment on the Eastover Small Area Plan: even in the City MIA, rezonings will be under the control of the Board of Commissioners and by law, they are bound to follow that small area plan, unless as a matter of record they give reasons why in a certain instance they might feel it appropriate to vary from the plan. They've got to go on the hook; they've got to stake themselves out.

One other comment that I've heard in addressing the sidewalk requirement, there is some sentiment, certainly from the staff and maybe from portions of the Planning Board, that in the City's MIA Density Development Conditional Use District's (CUD's) should be required to have sidewalks only on one side of collector streets, as collector streets may end up being defined.

Mr. Lloyd clarified the Eastover Area Plan requirements stating that everyone should understand that it applies as long as it's in the County.

Mr. Barrett stated that Mr. Lloyd was correct. The City's position on that and they've made it clear is that no other jurisdiction, no other municipality, is required to continue to honor County Small Area Plans once that area is annexed and they believe they would be singled out if there were a requirement for the City to do so. For those observers, who have been keenly tracking the editing process from one version of this document to another, you will have realized that the most recent version does delete a specific obligation that the City at least initially would observe Small Area Plans when rezoning properties annexed into the City.

Mrs. Piland asked Mr. Barrett to address if an area located within the Eastover Land Use Plan were to be annexed, what impact would that have on ESD and their ability to repay their loan?

Mr. Barrett stated that his answer would be similar to the answer about MIA. My interpretation of case law is that simply because it's annexed, it doesn't create a legal problem. It depends on how the City acts once it's annexed. If the City takes actions which impair or threaten the economic viability of ESD then I believe that would violate federal law. I hope that folks in the audience have been able to follow the comments I'm making, for those that have talked to me I hope that you will recognize that there has been progress and I'm trying to be responsive to many of the concerns that were expressed to me. In some areas there has not been complete agreement with the requested changes from the City in the discussion that I was asked to listen to. I would be happy to answer any questions about the comments that I made.

Mr. Pearce asked Mr. Barrett about the operational protocol of the Municipal/County Planning Commission, is it the assumption that this Board or the current Fayetteville Planning Board would go together with current numbers and equal one person one vote?

Mr. Barrett responded that that is a glaring omission in the details in this document that Mr. Lloyd and I very well aware of. He and I understand that there are two ways you could interpret the current document. If you don't address the answer to your question and put the answer to your question in the document, you could either have everybody shows up and it's a majority of everybody that shows up, no matter which Board they're from that carries a vote, or you could take the point of view that it requires a concurrent majority of the members of each Board that's present. That's not addressed in this document and quite frankly, this organization is not going to work unless that's addressed and it's going to create misunderstandings and disagreements unless this is worked out.

Vice-Chair Epler reminded Mr. Barrett about the addition of a sentence under Sewer Service Area.

Mr. Barrett stated that this is a paragraph that addresses Sanitary Sewer Services for economic development projects outside of the Sewer Service Area. We all recognize that PWC today makes those decisions as to whether it deems it an appropriate business decision to extend that service. The City had a sentence that in those instances PWC shall review the request and approve or disapprove the request. I had deleted that sentence because I felt we're just going to handle it the way it's handled today. They felt that they wanted at least some recognition that PWC had a role in deciding whether to serve economic development projects as they do today. In the language that I believe is acceptable and that I recommend adding here as an additional sentence is (we're talking about requests for sanitary sewer service outside of the sewer service area to economic development projects) "PWC will review such requests in accordance with its customary policies and procedures."

Mr. John Jackson spoke before the Board. Mr. Jackson opened his comments as he did the last time as a question of annexation and unified development standards. Mr. Jackson asked if this was more of an informational gathering or decisional information gathering that they will choose to vote on at the end of the meeting about the plan whatever it is.

Mr. Lloyd stated that it was his understanding that it was desired that this Board vote, hopefully they will vote with suggestions one way or the other in the best interest of the citizens, but vote one way or the other. I'm sure the Commissioners would like to know where this Board stands.

Mr. Jackson stated that he was very much in amazement that my colleague had to come before you again and state that the document, which I didn't receive until Monday, has changed and is now bringing notes to you and we still don't have a document that everybody can look at and analyze. It is again a rush to judgment. Not having that information on Friday, I chose to send a letter to the Board of Commissioners regarding what I thought was the federal law in this instance, to ultimately ask you to consider deleting the Sewer Service Area from this Interlocal Agreement. First I think that all of the Towns that are going to be involved should be a party signature to this Interlocal Agreement. Secondly, if I understand correctly, we are talking about subdivision changes, and I believe the County has a subdivision ordinance as well as a zoning ordinance if affected. Have we passed the necessary ordinances or do we have those ordinance texts available for us to really review them to see what affect the County is going to pass in terms of laws to implement this. I'm very much concerned that we're rushing to judgment, that we're doing exactly what we faced last time, we still don't have a complete document and this is such an important thing requiring the support of all of the cities and towns in the County. I think it's instrumental in making this thing successful. Again, I think it is a uniform development standards issue. The MIA to me should be just drawing some circles on the map and leaving all the rest of this stuff out of it. If you actually look at an Interlocal Agreement and particularly the Sewer Service Area, and I'm speaking now on behalf of ESD, it

goes right into the establishment of an MIA, then jumps to Sewer Service Area. It says in the first paragraph, development should be served by a municipal sewer. Then it says in paragraph 3, within the Sewer Service Area which is the red line drawn on the map, it is indicated this area would be served by PWC initially, now there's some recognition that maybe ESD is a player in it and they've never been asked to come to the table or been involved in any conversations that directed the County Attorney to bring changes and protocols to you. I have taken this map and circled ESD in black magic marker so that you can see what is proposed in the Sewer Service Area overlaying ESD. It's in that instance that I would like to ask you to consider deleting the whole Sewer Service Area situation and that a unified ordinance is prepared to address those things that they want to do and the ordinance is drafted and we have an opportunity to review them before they are sent before the Commissioners. I think it's important to bring to your attention the wording in some of the federal case laws on this. I have extracted this and have copies of my letter to the Commissioners. It says specifically "prohibits the curtailment of a rural utility systems service by either municipal annexation or the granting of a private franchise". The federal courts, however, availed that the statute also prohibits curtailment of a rural utility system service caused by a City's one, extraterritorial extension of utility service into the rural systems area. It goes on to say two, that 7 U.S.C. Section 1926(b) does not explicitly state that there should be no open competition, but it is clear from the legislative history that the intent of Congress was to protect rural water districts and other associations from competitive facilities, especially those which would be developed as a result of the expansion of neighboring municipalities. I would say, that the standards should be that PWC as an entity of the City, can't intrude on the ESD, and there should be no Sewer Service Area or any confusion so that there's any question that when sewer services are sought in that area, be it annexed by the City of Fayetteville or any other town, ESD should be considered a player in that, because of the federal law. In my letter I acknowledge that my presentation here does not in any way limit annexation into any areas. Why put in all that superfluous language about the Sewer Service Area if all they would have to do is get ESD to come in, talk to them and say this is the way we'll do it in this section and go on.

Commissioner Wheatley commented that public comment and public participation is some of the reasons that changes are trying to be made. People who have been involved in this have good intentions and are trying to get it right. So I ask that you not rush to judgment on them. They are very interested from everything that I've heard, on what the public is saying and what they are asking.

Mr. Lloyd stated that once the Interlocal Agreement is signed by the County Commissioners that will in essence say, and should be in the motion, directing the staff to draw up a change to the subdivision ordinance. That would be a public hearing.

Lawrence Buffaloe spoke before the Board. Mr. Buffaloe stated that he was here to present a resolution from the Town of Eastover. Some of what the County Attorney has said by adding standards and ordinances, and so forth may accommodate some of what Eastover has concerns about. Mr. Buffaloe read the Resolution and presented copies of it to be forwarded to the County Commissioners.

Mr. Morgan Johnson spoke before the Board. Mr. Johnson addressed three issues. The first issue is countywide development standards; there should be both rural and urban standards for development. Tom Lloyd and his staff should be commended because they are putting out every effort to do this. The second issue is the Sewer Service Area as it is defined. That really cannot be applicable within an ESD, the ESD itself owns, operates, and designs the system for our district. We have had federal funds put into the district and we have to follow the federal guidelines. These are rural development funds, specifically USDA Rural Development, we have

signed a six million dollar contract, and we're extending the water system all the way to the Sampson County line, but we will design to rural standards not urban standards, because that's what the federal law says we must do. We'll do the same thing with sewer, designing to the federal standards. Regardless of what you say as far as a Sewer Service Area, this is what we will do within the sanitary district. This is a rural area, but we will put in sewer because the people there need it.

Larry Faison, Town Manager for Spring Lake, spoke before the Board. Mr. Faison stated that he thought the idea for an MIA to be embodied in an Interlocal Agreement is attractive, but it should involve adjoining or abutting communities in Cumberland County rather than being limited to or focusing on a single community. However, in addition to specifying development standards and perhaps sewer service districts, I believe another element to be worthwhile for inclusion in an Interlocal Agreement to be the exclusion of annexation by one municipality of territory located in another's MIA, unless permission is granted. For example, Spring Lake should be prohibited from annexing territory in Fayetteville's proposed MIA unless Fayetteville agrees to that annexation, and vice versa. Thus, I suggest the form of an MIA to take on a broader context and involve, as signatories, abutting municipalities, such as Fayetteville and Spring Lake, Fayetteville and Eastover, Fayetteville and Hope Mills, as well similar provisions for Wade, Eastover, etc. These agreements should have a linkage between neighboring jurisdictions and have similar text that prohibits predatory annexation by one jurisdiction into another's MIA.

Liz Reeser spoke before the Board. Ms. Reeser stated that she was having "Groundhog Day" movie experiences with this whole topic, and they're not any better than they were the first time. I am grateful to hear that Eastover's Land Use Plan being a small area plan is being considered. But the whole concept itself has been rushed. Public input for the areas that are going to be included that is east of Fayetteville and west of the red line has not been represented well at all. We had a great deal of effort put forth for the 2030 and even our 2010 plan took us eighteen months to get someplace. Again this seems rushed and without much input from those citizens who will be effected by this new policy.

Deborah Tew, Mayor of Godwin, spoke before the Board. Mayor Tew stated that she was representing NORCRESS, Northern Cumberland County Regional Sewer System. Primarily the northern part of Cumberland County consists of Godwin, Wade, and Falcon. The three towns have not waited for the City or for PWC to provide utilities. The Town of Wade is self-sufficient in that they have their own water tank, the Town of Falcon purchases water from Dunn, and the Town of Godwin purchases water from Falcon. These three towns have pretty much piggybacked off of each other; as a result of having being able to work together, we were able to get a grant to put in sewer infrastructure in the northern part of the County. Once the project was completed we gave the infrastructure to PWC. Each of our Towns retains one dollar per month from a sewer bill that is paid to PWC monthly, for postage, accounting, and all of the administrative work that has to be done to process those bills. The rural area descriptions in the Interlocal Agreement do concern us. We have our own individual MIA's and we're satisfied with those. We are very much like the ESD in that we are wondering why no one has to date approached NORCRESS for any type of input regarding how extensions to sewer should be handled in our areas. I think that what we're planning for today is a document that will carry us through 2013. Mayor Tew gave a brief case history on how NORCRESS is not doing as well financially as it should be. They have had to increase rates one time and have been approached a second time with having to increase rates due to the chemicals they use. Part of the problem is the result of not enough customers on the system. Finally, the Town of Godwin had a new sewer customer and on January 28 the fee was paid for a sewer tap to be done in the Town of Godwin by PWC, and to this date it has not been done yet. It's obvious that PWC does not understand our geography in these areas because Falcon had a sewer installation that needed

to be done at the same time. When PWC loads up all of that equipment and hauls it twenty five miles to the northern part of the County doesn't it make sense that if there were two simple sewer taps that needed to be done within one mile of each other they would have been done at the same time. Falcon got their tap last week; as for my customer, I had to tell him as of Friday, it would be ten more working days. I don't know if they'll get it or not. My point is if we add another commission to carry these things through, I can't even imagine the bureaucracy we're going to encounter. That is a concern. I think that NORCRESS should have its own jurisdiction in the northern part of Cumberland County. We have an advisory board in place comprised of the three Mayors of the three towns, our Boards meet regularly, why shouldn't we have our own MIA, why shouldn't we be the ones to decide what happens in the northern end. We're not building for development up there either; we're building for the need. It is my recommendation that we not sign off on this Interlocal Agreement until some more changes are made. One positive thing that I would like to say is at a recent Mayors coalition breakfast we all agreed that we could agree on a standard of development, I think we need to focus on the standard of development.

John Gillis spoke before the Board. Mr. Gillis stated that he would like to enter into the record a set of comments to the Friday version of the Interlocal Agreement. What disappoints me is that the Planning Board and the Planning Staff has been put into the awkward position of responding to last minute changes that have been brought forth. That's key, because here again the Planning Staff should be the body that is taking care of these issues. I'm not sure who's rewriting the document at this point. It's a voice on the other end of the telephone. Mr. Barrett has been put into the awkward position of trying to be an intermediary for these issues. My hope is that at this juncture, there is not a basis for making a recommendation from what I've heard tonight. My opinion is its being rushed forward so that the Mayor can make one of his hundred day commitments of having an MIA agreement in place. There are other entities that are directly impacted by what's being proposed, those bodies have not been given the respect of being contacted, and now the pressure is being placed on the County because of perceptions that this is a good thing. Certainly, I believe that the City of Fayetteville does need to have an MIA, I can't disagree with that. As far as development standards, I hear criticism, the County and all the municipalities have standards in place, those standards are being used for every development that takes place in Cumberland County. Even though there may be the need to make changes to those, I'm disappointed that people continue to say that we don't have standards, because we do. This body is chartered to ensure that those standards are followed. I think the intent of this is summed up by comments I heard reported in the newspaper. That's basically that there is a need for the City of Fayetteville to control what's going on outside of the City of Fayetteville. The word control is the key, because in the County, the County Commissioners are chartered with that control. The smaller municipalities are chartered for that control, the Planning Board and its staff is chartered with implementation of those controls. By rushing the document in its present form as amended verbally tonight is a disservice to the entire community.

Jimmy Kizer spoke before the Board. I would just like to reiterate what was said about all of the work and compromise that has been done between the last document and this one. But there are still a lot of issues that still need to be worked out before we have a document that is worthwhile for approval. This all revolves around the ability to extend sewer to the places that it's needed and to make sure that the development standards are commensurate with getting sewer out there. Then we get into what's a reasonable set of development standards to use. The County has a density based system of development standards that works fairly well, depending on where you're doing your developing. The City has been stuck on curb and gutter; they have actually done some compromising by agreeing to cut back on the width of a street. That saves a little money on the actual street construction. We need to look at the new

stormwater requirements set forth by the State, where basically curb and gutter and storm drain systems are not preferred anymore. This document allows for that because it's a standard in the Department of Transportation (DOT) provisions; however, twenty-four foot back to back curb and gutter is not an accepted standard except on short cul-de-sacs with DOT. So we are trying to approve something in this document that may or may not be approved, but we're doing it without the knowledge of knowing if the DOT is going to agree to it. When we develop in the County we go through DOT not the City. We need to get that worked out first then go through this Interlocal Agreement. If the City had done a little research there is a document that was produced by the City in 2004, it's the Collector Street Plan for the City of Fayetteville. In this document they actually say that a Collector Street is constituted by having two hundred to three hundred residences on a street. There is a good compromise that we can come to, but that needs to be worked out and finalized in a document before we agree to push it forward.

Billy Hylton spoke before the Board. Mr. Hylton thanked everyone for all the work that had been put into this. Mr. Hylton is the President of the Homebuilders Association (HBA). Mr. Hylton stated that the HBA is not opposed to this document; they think it's a good thing. But only until the document is fixed to what everyone thinks is a good document. Mr. Hylton questioned why there would be a vote tonight. We need to look beyond 2008, 2010, we need to look to the year 2020 and this will be the document we see. To me it's not good business to take something that is this serious and push it through and get approval. I would encourage taking the initiative and do the same thing you did last time, make a recommendation to the Commissioners to send it back. Mr. Hylton stated that we're not fighting standards, we're fighting to an agreement that we believe will protect our industry and our customers. Our customers are our soldiers. That is our customer base, Ft. Bragg and the soldiers and airmen that serve our country. These are the people who live in our County. We are fighting for that industry because we want them to live in Cumberland County. We do not want them living in the adjoining counties and that is our concern.

Public Comment period closed.

Mr. Morris stated that he has sat on the Planning Board for eight years and this would be the biggest decision he would make, even if he stayed on the Board for another eight years. This will affect the lives of far more people than occurred during the big bang annexation. If we are going to look at an area this large, and basically through phone calls and emails, the people that are here have no clue that one, the yellow areas on the map are a clear step to annexation. I think it's extremely important that we as a Planning Board and extremely important for the Commissioners, to allow these people the time and the notification so that they realize that the County Commissioners, by agreeing to this MIA, is going to place them one step closer to annexation. It's important that the people that we represent and who have entrusted us in making the proper decision- that's why we've all had a hard time with this-that they are properly notified that it is the intent of the County Commissioners to provide an MIA for future annexation into the City of Fayetteville. I think we need to go one step further, we can't sit here and not do the proper planning and not let the planners do the proper planning, we have to have a comprehensive plan of this sewer shed to make sure that we're not retrofitting, which is what's going on today. It's a waste of money, everybody agrees with that. Since we already have Joint Planning and the fifth Tuesday of each month is already a time designated for the City and County Boards to work together, we need to use what we already have. We also did the North Fayetteville study, which we did as a joint effort. We had public hearings and we notified people so the public came, everybody had a say so and had the right to be heard. We had a comprehensive study and we've laid the foundation and set the precedent. What we need to do as a Planning Board is eliminate from this document this creation of a new bureaucracy, work

within what was tried and proven, and create on that blue sewer shed, a comprehensive area plan with public involvement, so that everybody knows what is going on with those areas. I do think whether we like it or not there is going to be an MIA because the growth of this community is going to dictate it and the density will follow the sewer and water. So we need to deal with it.

Mr. Lloyd stated that he wasn't taking sides; I don't think that people on the County line were notified that they were in Hope Mill's MIA. After the 2030 plan, the people that are included in the proposed Eastover MIA are not going to be notified. If this 2030 plan goes with these MIA's as they're shown, once that 2030 plan is approved then those MIA's are approved. That's the way it was set up. I'm not saying that that is good or bad, but that's the way it was set up. This isn't the first time that an MIA has been drawn without people being notified.

Mrs. Piland stated that public policy should be public and that this deserved the attention of our communities. Here in Cumberland County we have all this discussion about MIA and about the process, but yet if we were talking about Extraterritorial Jurisdiction (ETJ) as I understand it, the law very clearly states that citizens will be notified and they will have to follow a certain process for that. But, because we're not into an ETJ process all that's out the window; an MIA is essentially an ETJ, but we don't provide the opportunities for our residents.

Mr. Lloyd stated that an ETJ addresses zoning, which addresses land use, not just the density. This does not address what can or can't be done on somebody's property, it addresses development standards.

Chair McLaurin asked who is in the group who put this document together.

Mr. Lloyd stated that representing the County it was himself, Dr. Henley, the County Manager, and Commissioner Wheatley and representing the City is Kyle Sonnenberg Assistant City Manager, Mayor Chavonne, Wesley Meredith, and Mr. Iman, the City Manager.

Commissioner Wheatley stated that this group is a working group, not a voting group. It is a group to bring the agreement back to the Planning Board and to the Commissioners. The City may be different than ours; it may have gone straight to the City Council. This didn't just start, it's been going on for three years, it's been in and out of the Fayetteville Observer, in defense of the people who are just trying to get the document to where it needs to be. So there's an interlocal agreement that gets sent forward that is a working agreement to include the City and Joint Planning Board.

Mrs. Hall stated that Hope Mills is back as a member of the Planning Board, when we left the Planning Board we lost our MIA, when we came back to the Board the Commissioners gave us the MIA back. We have an interlocal agreement, which I assume every smaller municipality has between the County Planning Board and the municipality to be a part of the Board. Now, the City is asking for an MIA agreement and they're not coming back to the Planning Board to get that. In addition they are establishing another Commission, Municipal/County which looks like they get half of the authority, instead of coming back to the Planning Board like the smaller municipalities do. I do think the playing field is level.

Mr. Lloyd stated that this staff does all the planning for the towns, if the City comes back to the Planning Board, they would refuse to give up their area planning. That's a big difference. There are differences in this case why the City-why this proposal of the Joint Planning Commission- has come about not to deal with zoning.

Vice-Chair Epler stated that when she saw this agreement and saw that there was another level of bureaucracy that would have to be endured if anyone wanted to extend sewer past the Sewer Service Area, she personally doesn't see the need for another governing body to review that process. We have a City Planning Board and County Planning Board that meet regularly twice a month. If a sewer extension request comes in, each of those boards could rule on the request separately. That would be two recommendations that would go forward from those two meetings. They would receive the same weight with the County Commissioners.

Mr. Lloyd stated that this Planning Board is going to act on this document and have input on it. The City Planning Board will not, it will go right to the City Council. There is a difference in the way these entities view the purpose of a Planning Board.

Mr. Barrett addressed the concerns of public awareness of this document. If there is no public hearing on this document, those provisions in the document that effect subdivision ordinances will not be enforceable until they are presented to the Board of Commissioners at a public hearing. It might be useful to place an ad in the paper to tell the community that this proposed Interlocal Agreement has been posted on the website for them to review and inspect.

Mr. Morris suggested that an ADHOC Committee be formed and that this proposal goes to that Committee, and from that Committee there should be a document that can be subject to a public hearing. The Commissioners have given this to us to work on and **I am making a motion to create an ADHOC Committee to deal with this within a subcommittee of this Planning Board to bring it back to the public, seconded by Mr. McNeill.**

Mr. Barrett stated that if this Board in its discretion establishes an ADHOC Committee, it is a committee of a public body and must convene and follow the open meetings policy.

Vice-Chair Epler stated that she agreed with Mr. Morris in that a Committee is needed to approve what comes before the Board, before it gets to them.

Mrs. Piland stated that they should remember that the Planning Board serves as an advisory board to the County Commissioners, and it seems like we have been charged with evaluating and refining this particular document, and I just see that process as continuing on whether it's through an ADHOC Committee making recommendations to the full Board or whether it's the full Board continuing to make the recommendations.

Mr. McNeill stated that he seconded Mr. Morris's motion not really convinced that he would vote for it. But, somebody needs to take this document and work on it. I am really embarrassed that we have had two meetings and ended up with changes being done at the eleventh hour. I think this Planning Board or a subcommittee of this Board has a good record of getting something down on paper that people can understand. I am pleased with this document in that it is much simpler than the other.

Mr. Barrett made a commitment to get the changes to the Interlocal Agreement circulated by Monday. Mr. Barrett wanted everyone to realize the progress that has been made so far with this document.

Mr. Lloyd suggested that if the ADHOC Committee is formed that this committee or the Board in general, work together with the group that put the Interlocal Agreement together, to avoid the constant changes and to avoid the back and forth communication.

Mr. Morris amended his motion to notify the Commissioners of the Board's decision and that it will work not to delay the process and work on any changes and request to have the other working group attend the meetings and have their input, seconded by Mr. McNeill. Unanimous approval.

Chair McLaurin announced who would be on the ADHOC Committee. The members will be Mr. McNeill as Chair, Chair McLaurin, Vice-Chair Epler, Mr. Morris and Mrs. Piland.

The first meeting will be Tuesday, March 11, 2008 at 5 PM in Room 107C of the Historic Courthouse.

IX. DISCUSSION

IX. FOR YOUR INFORMATION

A. DIRECTOR'S UPDATE

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:35 p.m.