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KENNETH S. EDGE  
CHARLES E. EVANS  
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# CUMBERLAND ★ COUNTY ★ NORTH CAROLINA

## BOARD OF COMMISSIONERS

CANDICE WHITE  
Clerk to the Board

KELLIE BEAM  
Deputy Clerk

### MEMORANDUM

TO: Policy Committee Members (Commissioners Evans, Faircloth, and Edge)

FROM: Kellie Beam, Deputy Clerk to the Board *KB*

DATE: October 31, 2013

SUBJECT: Policy Committee Meeting – November 7, 2013

**There will be a regular meeting of the Policy Committee on Thursday, November 7, 2013 at 10:30 AM in Room 564 of the Cumberland County Courthouse.**

### AGENDA

1. Approval of Minutes – September 5, 2013 Meeting (Pg. 2)
  2. Report on Federal Advocacy Program (Pg. 5)
  3. Consideration of Approval of Phase II of County Smoke Free Initiative (Pg. 16)
  4. Consideration of Ordinance Prohibiting Certain Activity On or Within 500 Feet of a School (Pg. 22)
  5. Other Matters of Business (NO MATERIALS)
- cc: Board of Commissioners  
Administration  
Legal  
Communications Manager  
County Department Head(s)  
Sunshine List

CUMBERLAND COUNTY POLICY COMMITTEE  
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
SEPTEMBER 5, 2013 – 10:30 A.M.  
MINUTES

MEMBERS PRESENT: Commissioner Charles Evans , Chairman  
Commissioner Marshall Faircloth  
Commissioner Kenneth Edge

OTHER COMMISSIONERS  
PRESENT: Commissioner Jeannette Council (left at 10:55 a.m.)

OTHERS PRESENT: James Martin, County Manager  
Amy Cannon, Deputy County Manager  
James Lawson, Assistant County Manager  
Rick Moorefield, County Attorney  
Sally Shutt, Chief Public Information Officer  
Jeffery Brown, Engineering & Infrastructure Director  
Melissa Cardinali, Finance Director  
Howard Abner, Assistant Finance Director  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Commissioner Evans called the meeting to order.

1. APPROVAL OF MINUTES – MAY 2, 2013 MEETING

MOTION: Commissioner Faircloth moved to approve the minutes.  
SECOND: Commissioner Edge  
VOTE: UNANIMOUS (3-0)

2. CONSIDERATION OF CITY OF FAYETTEVILLE AND CUMBERLAND  
COUNTY STRATEGIC PLANNING SESSION

Commissioner Evans stated he requested the placement of this item on the agenda and in light of the fact that Fayetteville is in the middle of a municipal election and it is not known at this time who will be elected to the Fayetteville City Council, he was prepared to make the following motion.

MOTION: Commissioner Evans moved to consider a City of Fayetteville and Cumberland County Strategic Planning Session at a future meeting.

# DRAFT

SECOND: Commissioner Faircloth

DISCUSSION: James Martin, County Manager, asked if the matter could be brought up at the January 2014 meeting of the Policy Committee. Commissioner Evans responded in the affirmative. Commissioner Edge stated the other municipalities in the county should also be involved. Commissioner Evans concurred. Mr. Martin also suggested that should there be a meeting with the county and the municipalities regarding emergency disaster response, this could possibly be added to that agenda as well. Commissioner Evans stated that would be a great idea.

VOTE: UNANIMOUS (3-0)

## 3. DISCUSSION REGARDING PINPOINT AND DRAPER ROADS RIGHT-OF-WAY ISSUES

Rick Moorefield, County Attorney, stated Pinpoint and Draper Roads are connected private roads located off Clinton Road near the Vander Community. Mr. Moorefield stated these roads are in very poor condition and appear to be impassable after heavy or prolonged rainfall. Mr. Moorefield stated the roads serve thirty-one (31) parcels and from the aerial photo, it appears that about half of these parcels contain dwellings.

Mr. Moorefield stated at the request of Commissioner Evans, in 2012 the county attorney's office sent information and forms to all parcel owners by which the owners could indicate their willingness to donate right of way in order for the Department of Transportation (DOT), to place the roads on the state system. Mr. Moorefield stated ten (10) parcel owners responded that they were willing to donate the needed right of way. Mr. Moorefield stated in order to proceed with DOT procedures to add the roads to the state system, at least 75% of the parcel owners have to be willing to donate the right of way. Mr. Moorefield stated using the process by which the property owners donate right of way appears not to be an option.

Mr. Moorefield stated Draper Road crosses the CSX railroad right of way that runs parallel to Clinton Road and DOT has advised the county attorney that CSX will not permit any improvements in its right of way unless DOT closes three other at-grade rail crossings in Cumberland County. Mr. Moorefield stated this makes it impossible for that portion of the road to be brought into the state system.

Mr. Moorefield stated Commissioner Evans asked him to research whether the county has the authority to condemn the right of way necessary to bring these roads into the State Highway System.

Mr. Moorefield explained a summary of the law governing a county's authority with respect to the condemnation of rights of way for roads. Mr. Moorefield stated in his opinion the county does not have the authority to condemn the right of way for these

## DRAFT

roads except in conjunction with an agreement with DOT that DOT will accept these roads into the state system. Mr. Moorefield stated DOT does not condemn right of way in order to bring private roads into the state system, thus any such agreement would require the county to pay the costs of the condemnation.

Mr. Moorefield stated due to the cost of the condemnation and the necessity to consider additional private roads after establishing this precedent that a request to DOT for placing the roads in a passable condition as neighborhood public roads is likely the only assistance the county can provide. Mr. Moorefield stated this may also require that litigation be commenced against those property owners who are opposed to the improvements and if DOT elects to proceed, it would likely require the county to bring these actions.

Commissioner Evans stated his main concern is that many senior citizens reside in this area and he feels emergency vehicles will not be able to reach the citizens in a timely manner due to the condition of the roads. Commissioner Evans stated he would like to see the Policy Committee request that DOT make improvements for the roads to be passable. Commissioner Faircloth stated if the Policy Committee requests the county attorney to draft a resolution to DOT to request the roads be made passable and DOT agrees, the county can look at what options are available at that time.

MOTION: Commissioner Faircloth moved to recommend to the full board consideration of a request to the county attorney to draft a resolution to DOT requesting Pinpoint and Draper Roads be made passable.

SECOND: Commissioner Edge

VOTE: UNANIMOUS (3-0)

#### 4. OTHER ITEMS OF BUSINESS

Mr. Moorefield stated the Senate override of the Governor's veto of the e-verify bill became effective today. Mr. Moorefield stated this law will require the county to insert an additional provision in contracts that will require all contractors and sub-contractors to certify they have complied with the e-verify requirements. Mr. Moorefield stated this law will also apply to the county's hiring process. Ms. Cannon stated this involves educating county departments with regard to adding this provision to contracts and educating all vendors that work with the county.

MEETING ADJOURNED AT 11:15 AM



## **MEMORANDUM**

**TO:** Cumberland County Policy Committee

**FROM:** Rebecca Rogers-Carter, Russ Rogerson and Sally Shutt (Federal Advocacy Program partnership coordinating committee representatives)

**DATE:** October 29, 2013

**SUBJECT:** Report on Federal Advocacy Program

**Background:** After issuing a request for proposals for federal legislative consulting services, the Chamber received two responses. *FaegreBD* quoted \$7,500 per month (or \$90,000 for a 12-month contract period). The company would seek reimbursement for travel, meals, extraordinary copying and mailing costs. *The Ferguson Group* quoted \$144,000 per year for professional services and \$8,000 for business-related reimbursable expenses, the same fee it has been charging the partnership since 2008.

**Request and Recommendations:** The partnership's coordinating committee is seeking direction on now to proceed with the Federal Advocacy Program. The committee has the following recommendations:

- Adopt the framework for the Federal Advocacy Program (attached) based on the partnership's Memorandum of Agreement (attached).
- Tie the federal agenda to the fiscal year and hold the next federal agenda-setting workshop on or about February 18, 2014.
- Contract with *FaegreBD* for six months starting in January or February 2014 to develop the partnership's federal agenda and strategy to achieve goals.

**Group requesting the matter:** The coordinating committee for the Federal Advocacy Program, a partnership between the City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber of Commerce. Members are Rebecca Rogers-Carter, Russ Rogerson and Sally Shutt.

**Expected Time Needed:** 10 minutes





## **City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber**

### **Framework for the Federal Advocacy Program**

#### **Goal:**

To advocate for federal legislation, programs and funding that support the mission and priorities of the City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber.

#### **Background:**

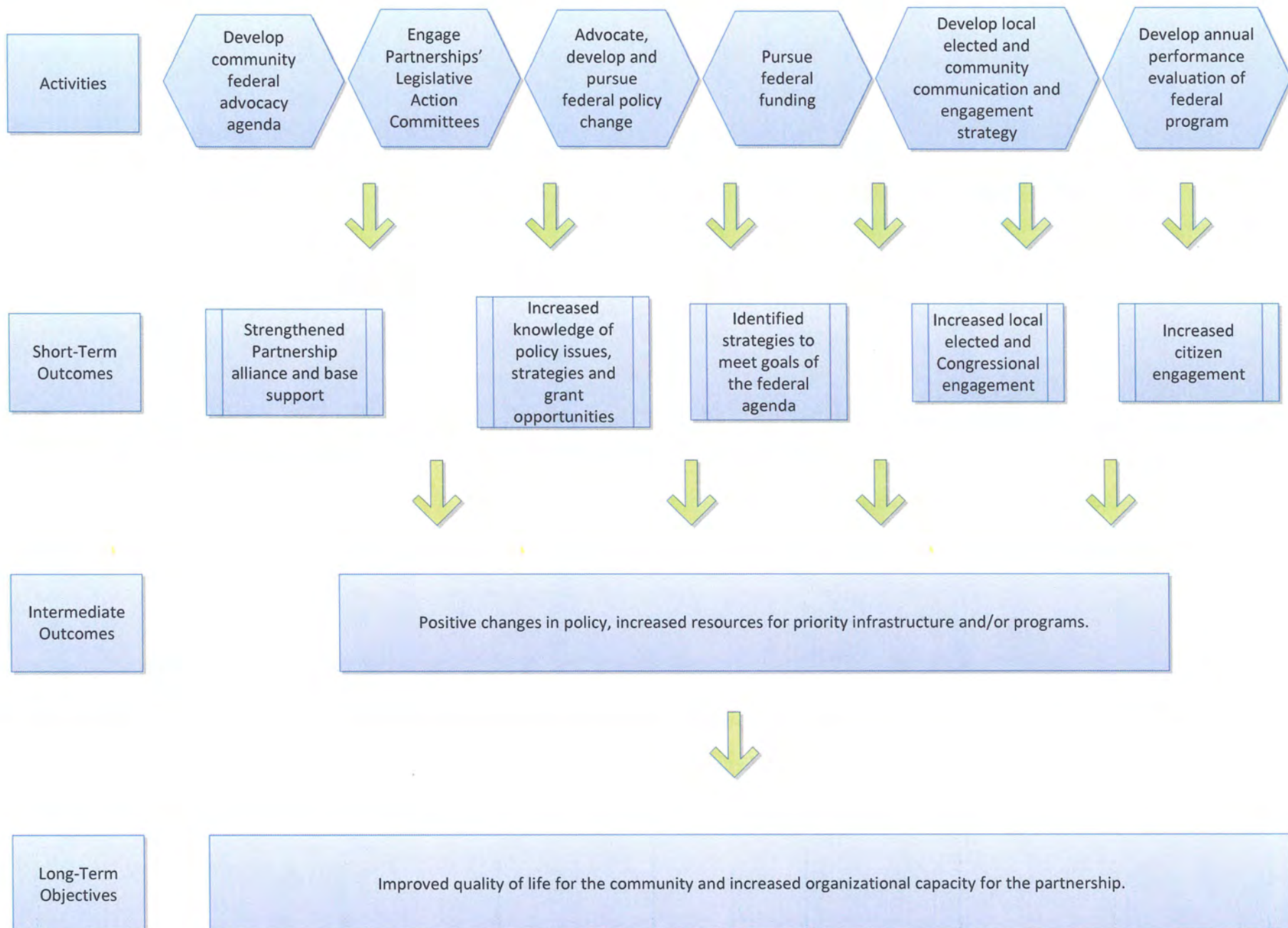
The City of Fayetteville, Cumberland County and the Fayetteville Regional Chamber have a federal advocacy partnership that works collaboratively to pursue federal legislative advocacy and funding assistance for strategic focus areas identified in an annual, collectively established federal agenda. This Federal Advocacy Program is an investment aimed at achieving policy gains which provide solutions to community issues and federal dollars to support priority projects and programs.

Federal funding and policy decisions are critical to the growth and strength of our community. In the best interest of their constituents, the partners have prioritized infrastructure, technology and programmatic needs. The combined advocacy efforts protect and preserve essential community assets and resources, allowing Fort Bragg and its surrounding metropolitan and unincorporated areas to thrive.

The program will work to ensure that policymakers are informed and engaged. We will deepen strategic alliances and public awareness as we find opportunities to bolster public support and engagement. Community groups are encouraged to collaborate on common policy and project priorities, which deepens our connection to public concerns.

#### **Outcomes:**

- Short-term outcomes (12 months): Strengthened partnership alliance, strengthened organizational capacity, increased partnership knowledge of policy issues and federal grant opportunities, identified strategies to meet goals, increased local elected and Congressional engagement, increased public awareness and engagement with federal issues impacting the community.
- Intermediate outcomes: Positive changes in policy, increased resources for priority infrastructure and/or programs.
- Long term outcomes: Increase the Partners' organizational capacity for core mission services and achieve a shift in social norms in our community that causes an improved quality of life for citizens.





## ACTION PLAN MOVING FORWARD

### The community Federal Advocacy Agenda

- Select consultant firm for 6 month contract
- Annual federal affairs assessment workshop Feb. 18. Staff and elected input
- Adoption of community federal advocacy agenda by all boards. Effective thru FY 15. Shift to fiscal year basis
- Strategy map and scope of work from consultant
- Performance evaluation of program & recommendations for FY 15 budget process

### Efforts guided by MOU and adopted Federal Advocacy Agenda

Legislative advocacy

Federal funding  
pursuit

Communication:  
Engagement and  
grassroots efforts

### Action Plan

Work with consultant to keep partners abreast of emerging issues

Draft language for policy change. Develop advocacy memos and disseminate

Make connection between federal advocacy agenda and grants opportunities

Coordinate and advocate with granting agencies and partnership staff

Work to establish community engagement presence and develop consortium to support federal advocacy agenda

Communicate with Congressional delegation and local elected; establish meetings



**COPY**



*City of*  
**Fayetteville**  
*North Carolina*



**CUMBERLAND**  
\* COUNTY \*  
NORTH CAROLINA



THIS MEMORANDUM OF UNDERSTANDING, entered into this 28<sup>th</sup> day of May 2013, by and between the CITY OF FAYETTEVILLE ("City"), acting by and through its duly elected City Council, the COUNTY OF CUMBERLAND ("County"), acting by and through its duly elected Board of Commissioners and the FAYETTEVILLE REGIONAL CHAMBER ("Chamber"), acting through its Board of Directors, hereinafter "The Partners."

Whereas, the City, County, and the Chamber have successfully worked collaboratively through a common contractor to pursue federal funding for projects identified each year; and

Whereas, the federal funding system focus has changed from legislative designation to administrative allocation through competitive grants; and

Whereas, due to the importance of military spending to the local economy, federal funding and policy decisions are critical to the growth and strength of the City, County, and Chamber; and

Whereas, The Partners believe that it is in best interest of their respective constituents to collaborate on the pursuit of a federal advocacy agenda and federal designation and grant funding opportunities; and

Whereas, the operating practices and resources of the partnership must be revised to respond effectively to the new federal funding paradigm; and

Whereas, the City, County, and Chamber have partnered to create and support the Economic Development Alliance of Fayetteville and Cumberland County ("Alliance") for the purpose of serving job creation and development in the region;

**NOW THEREFOR;** City of Fayetteville, County of Cumberland, and the Fayetteville Regional Chamber agree as follows:

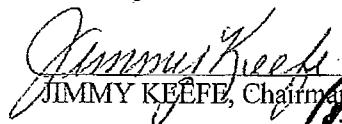
1. Priority areas for advocacy and pursuit of federal grant opportunities include
  - a. Military spending and policy; and
  - b. Transportation and infrastructure spending and policy; and
  - c. Public safety and community quality of life spending and policy; and
  - d. Education and training spending and policy.

2. The Partners will designate representatives for a coordinating committee that will be responsible for
  - a. Developing Partner legislative advocacy agenda; and
  - b. Responding to legislative issues as they arise; and
  - c. Resource allocation and prioritization ; and
  - d. Coordination and collaboration of federal grant opportunities.
3. Federal Advocacy Agenda:
  - a. Annual Priorities: The Partners will meet annually to establish a federal advocacy agenda that will identify up to ten (10) highest priority position statements to be the focus of their combined advocacy efforts.
  - b. Federal Representation Resource: The Alliance will contract for professional services to assist the Partnership with:
    - i. Development and pursuit of the legislative advocacy agenda focused on policy; and
    - ii. Administrative advocacy in pursuit of grant funding; and
    - iii. Identification, pursuit and advocacy of federal designation opportunities that meet the goals of the established legislative advocacy agenda.The cost of this contract will be divided equally between the Partners.
4. Federal Grant Funding:
  - a. Collaborative Efforts: The Partners will collaborate on seeking and pursuing opportunities for federal grant funding on issues and projects defined in the legislative advocacy agenda. This effort will include developing a unified resource for grant research focused on developing grant opportunities for existing programs and needs of any partner organization, grant writing assistance, and agency advocacy.
  - b. Federal Grant Support Resource: The Alliance will secure resources to research federal grant opportunities which will incorporate support for grant writing and may include contracting, FTE, or a combination thereof. The cost of this resource will be divided between the Partners as agreed by the parties.

**THIS MEMORANDUM OF UNDERSTANDING** renews automatically on an annual basis until such time that a member of the Partnership provides 60 day advance written notification of cancellation to all parties.

**CUMBERLAND COUNTY BOARD OF  
COMMISSIONERS**

**CITY OF FAYETTEVILLE**

  
JIMMY KEEFE, Chairman

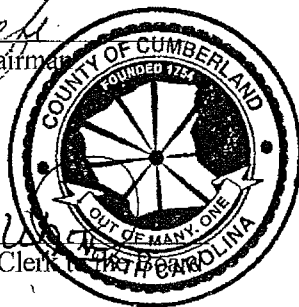
  
ANTHONY G. CHAVONNE, Mayor

ATTEST:

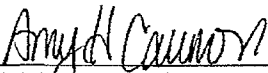
ATTEST:

  
CANDICE WHITE, Clerk

  
PAMELA J. MEGILL, City Clerk



This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

  
AMY CANNON, Finance Director

APPROVED AS TO FORM:

  
RICK MOREFIELD, County Attorney

FAYETTEVILLE REGIONAL CHAMBER

  
DOUGLAS S. PETERS, CEO

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

 6/10/13  
LISA T. SMITH, Chief Financial Officer

APPROVED AS TO FORM:

  
KAREN M. MCDONALD, City Attorney





## Calendar Year 2013 Federal Legislative Agenda

The City of Fayetteville, Cumberland County, and the Fayetteville Regional Chamber of Commerce have formed a strategic partnership to establish a federal advocacy agenda. Federal funding and policy decisions are critical to the growth and strength of our community. In the best interest of their constituents, the partners have prioritized infrastructure, technology and programmatic needs. The combined advocacy efforts will protect and preserve essential community assets and resources, allowing Fort Bragg and its surrounding metropolitan and unincorporated areas to thrive. Therefore, the partners call upon the advocacy of its Congressional delegation to support their highest priorities.

### **HOMELAND SECURITY, EMERGENCY RESPONSE AND PUBLIC SAFETY**

Combating gun violence, gangs, domestic violence and human trafficking are top priorities. Our community operates under constant public safety danger based on the national security agenda, proximity to Fort Bragg, and our central location and accessibility to interstate highways. Interoperability improvements are a must for our community, yet there is no funding to do so. The military security component creates unique challenges in communications between first responders and the military. County public safety agencies, the city police and fire departments are in need of updating radio systems to be P-25 compliant. Additionally, radio interoperability between the city, county and Fort Bragg emergency services is very limited.

**Position:** Invest in our nation's homeland security, public safety and local first responders.

#### PRIORITY INITIATIVES

- Gun Safety
- Technology inter-operability
- Joint Emergency Operations Center
- Anti-Human Trafficking
- Innovative Family Justice Center
- Court programing for domestic violence and sexual assault prevention

#### ACTION STEPS

##### *Legislative Advocacy:*

- Design language for FY14 Justice Appropriations that gives the Justice Department the flexibility it needs to allow discretionary funding of a competitive grant for public safety technology
- Assist acquisition of communication systems for P-25 compliance between military, first responders, and public safety officers
- Incentivize joint emergency & crisis services; support government modernization
- Fund Homeland Security
- Support anti-human trafficking infrastructure funding; port, highway, and street development to provide effective police response

##### *Federal Assistance:*

- Smart Policing Initiative
- Project Safe Neighborhoods
- Violence Against Women Act
- Anti-gang initiatives
- Byrne Criminal Justice Innovation program



## Calendar Year 2013 Federal Legislative Agenda

### VETERANS, HEALTH & HUMAN SERVICES

North Carolina has a population of 760,000 veterans. Cumberland County has the third largest population of veterans for any county and ranks first for all categories of disabled veterans, including 100 percent disabled. Fayetteville and Cumberland County are proud to be the home of Fort Bragg, the second largest military installation in the world, and consider it a privilege to serve active-duty military and veterans. Yet the impact on local government, and our health and human services agencies, is significant. Increasingly limited resources are threatening the delivery of health-related and social services for veterans and our military population, who have been at war continuously for 12 years.

**Position:** Advocate for targeted funding and legislation to assist with veterans support services, mental health resources, homelessness, and military workforce development.

#### PRIORITY INITIATIVES

- Support court innovation programs with emphasis on veterans and mental health needs
- Crisis Intervention Training
- Emergency shelter & homeless prevention program support
- CDBG & HOME: Affordable Housing

#### ACTION STEPS

##### *Legislative Advocacy:*

- Advocate for veterans support services provided by local governments: transportation, mental health, crisis intervention, medical care, transitional housing and counseling, including creating new legislation where needed
- Work with national associations and coalitions to protect and sustain HOME and CDBG funding
- Support funding for Institute for Museum and Library Services

##### *Federal Assistance:*

- Veterans Treatment Court, grant application 2013.
- Seek capital funding for drop-off center and programmatic support for Crisis Intervention Training
- Street Outreach Program
- Urban and Non-Urban Homeless Veterans Reintegration
- Seek federal funding sources for a dedicated county law enforcement officer to work with homeless





## Calendar Year 2013 Federal Legislative Agenda

### TRANSPORTATION, ENVIRONMENT & INFRASTRUCTURE

Fayetteville's infrastructure network is vital to our community's safety, connectivity, economic development and growth. As local governments respond to fiscal challenges and existing infrastructure ages and lags behind growth, federal support is critical. Public transit is a Smart Growth environmental priority for the region. Fayetteville's public transit system has experienced an increase in public transit use of 80 percent since 2008. Airport funding must be protected and expanded as our military and business sectors greatly rely on the services provided by Fayetteville Regional Airport and are invested in the future growth of these services. It is imperative that we preserve our natural resources, and green spaces to create beautiful, walkable communities. Fayetteville's parks and recreation facilities lag behind the national standard and struggle to provide quality of life programs for all its citizens, including the military families our community supports.

**Position:** Advocate for the authorization of a well-funded, long-term, comprehensive surface transportation program. Advocate for enhanced congressional support for urban design, air quality improvement, traffic calming, street widening, and pedestrian safety improvements on roadways and corridor projects that will promote business development and necessary military transit. Advocate for infrastructure funding to accelerate job growth, assist communities with declining infrastructure, including capital projects for Parks and Recreation facilities.

#### PRIORITY INITIATIVES

- Protection of public transit system formula funding
- Expanding public transportation programs (rural, startups, etc)
- Protection and expansion of airport funding
- Expansion of roadways and utilities for business development
- I-295 accelerated schedule
- Environmental protection
- Community gateway and transportation corridor beautification funding
- Capital funding for maintenance, upgrades and additional facilities

#### ACTION STEPS

##### *Legislative Advocacy:*

- Draft FAST amendments for surface transportation (MAP-21)
- Advocate for comprehensive regional master plan development funding
- Engage in planning process to prepare for smart communities/smart growth strategies, funding and implementation
- Support expanded authority in Water Resources Development Act under Section 219(f) for water and sewer upgrades and remove appropriation restrictions on Corps new starts
- Support the Community Parks Revitalization Act and innovative financing of park and recreational infrastructure

##### *Federal Assistance:*

- Seek funding for traffic safety study
- Help public transit system maximize federal resources
- Help Fayetteville Area Metropolitan Planning Organization maximize federal resources
- Seek funding to study I-95 corridor improvements
- Explore ways to help NCDOT fund an accelerated construction schedule for the Fayetteville-Cumberland County I-295 Outer Loop
- Seek grants to fund parks and recreational facilities





City of  
**Fayetteville**  
North Carolina



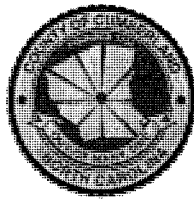
**CUMBERLAND**  
COUNTY  
NORTH CAROLINA



Fayetteville Regional  
**CHAMBER**  
OF COMMERCE

## Calendar Year 2013 Federal Legislative Agenda

<b>ECONOMIC &amp; WORKFORCE DEVELOPMENT</b>	<p>Economic and talent development, in light of sequestration, creates an urgent need for industry diversification in Cumberland County. We are seeking ways to support business growth and new industry development to combat the county's high unemployment rate. Additionally, attempts to attract large industry to the area have brought to light an infrastructure deficit. Economic development initiatives would benefit greatly from the purchase and development of a mega site.</p>
<p><b>Position:</b> Advocate for additional legislative attention to promote small business development, assist the growth of the local food economy, and workforce innovation grant funding for internships/work-based learning in high growth fields to support veteran employment and skilled workforce for businesses.</p>	
<p><u>PRIORITY INITIATIVES</u></p> <ul style="list-style-type: none"> <li>• Foreign Direct Investment attraction</li> <li>• Mega site</li> <li>• Workforce training initiatives and hiring incentives</li> <li>• Farmers markets</li> <li>• Wounded Warrior employment assistance</li> <li>• Murchison Road Corridor Development</li> </ul>	<p><u>ACTION STEPS</u></p> <p><i>Legislative Advocacy:</i></p> <ul style="list-style-type: none"> <li>• Support funding for U.S. Department of Labor Workforce Innovation Grant programs and High Growth Job Development Initiatives, as well as funding for work-based experiential learning, internships/externships, apprenticeships, youth work programs and business hiring incentives for veterans and ex-offenders</li> <li>• Support funding for workforce development programs for veterans, military families and wounded warriors</li> <li>• Support Veterans Administration and Small Business Administration programs that provide small business loans</li> </ul> <p><i>Federal Assistance:</i></p> <ul style="list-style-type: none"> <li>• Seek funding for mega site infrastructure development funding</li> <li>• U.S. Economic Development Administration Public Works and Economic Adjustment Assistance Programs</li> <li>• U.S. Department of Agriculture's Farmers Market Promotion Program</li> <li>• Seek funding and leverage partnerships in an effort to promote economic development along the Murchison Road corridor</li> </ul>
<b>LOCAL GOVERNMENT SUSTAINABILITY</b>	<p>Congressional support of fiscal tools that help ensure financial sustainability for local governments.</p>
<p><u>INITIATIVES</u></p> <ul style="list-style-type: none"> <li>• Online Sales Tax</li> <li>• Municipal Bonds</li> <li>• Impact Aid</li> </ul>	<p><u>ACTION STEPS</u></p> <ul style="list-style-type: none"> <li>• Support legislation that allows local governments to collect sales taxes from online sales</li> <li>• Oppose increasing costs of issuing municipal bonds</li> <li>• Oppose cuts to Impact Aid and support legislation that assists with school construction projects</li> </ul>



**CUMBERLAND  
COUNTY**  
NORTH CAROLINA

**DEPARTMENT OF PUBLIC HEALTH**

**MEMO FOR THE AGENDA OF THE NOVEMBER 7, 2013  
MEETING OF THE POLICY COMMITTEE**

**TO: POLICY COMMITTEE MEMBERS**  
**FROM: BOARD OF HEALTH**  
**THROUGH: JAMES LAWSON, ASSISTANT COUNTY MANAGER**  
**DATE: OCTOBER 28, 2013**  
**SUBJECT: CONSIDERATION OF APPROVAL OF PHASE II OF COUNTY  
SMOKE FREE INITIATIVE**

**Requested by: County Management**  
**Presenter(s): Buck Wilson, Public Health Director**  
**Estimate of Committee Time Needed: 15 minutes**

**BACKGROUND:**

On May 6, 2013, the Board of County Commissioners approved the revised smoking ordinance to establish smoke free grounds for all health department and library facilities, and department of social services.

According to The New York Times, the cost of a smoker is \$5,816. Also stated in the same article, a smoker costs an employer in the United States an extra \$5,816 per year compared with a nonsmoker, according to researchers at The Ohio State University. They estimated the largest cost, at \$3,077 annually, came from taking smoking breaks. The second largest cost, at \$2,056, was related to excess health care expenses. And, the third cost came from increased absenteeism. The researchers found that smokers miss about 2.5 extra workdays each year, and lost productivity at work because of nicotine's withdrawal effects.

Following the approval on May 6, 2013, county management requested a recommendation for Phase II to begin. On October 15, 2013, the Board of Health approved Phase II of the county smoke free initiative which includes the addition of the facilities listed below:

- Courthouse, 117 Dick Street Fayetteville NC 28301
- Law Enforcement Center, 131 Dick Street Fayetteville NC 28306
- Detention Center, 204 Gillespie Street Fayetteville NC 28301

- Animal Control, 4707 Corporation Drive Fayetteville NC 28306

**RECOMMENDATION/PROPOSED ACTION:**

Approve Phase II of County Smoke Free Initiative.

Thank you for your consideration.

Attachment (1)

/tlb



A. Approval of Revised Cumberland County Smoking Ordinance

BACKGROUND:

In 1993, the Board of County Commissioners adopted an ordinance prohibiting smoking in all county-owned or leased buildings and vehicles and within 25 feet of the buildings. The ordinance is codified in Chapter 9.5 of the Cumberland County Code. On April 4, 2013, the Policy Committee voted to recommend the Board approve an ordinance prohibiting smoking on the grounds of designated facilities including the Department of Social Services, all facilities where Health Department services are provided, and all county library facilities.

The revised smoking ordinance as recorded below repeals the old smoking ordinance and incorporates the provisions of the old ordinance and the provisions of the proposed ordinance prohibiting smoking on designated grounds.

RECOMMENDATION/PROPOSED ACTION:

That the board of commissioners adopts the revised smoking ordinance as recorded below.

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF  
COMMISSIONERS REPEALING CHAPTER 9.5, ARTICLE III. SMOKING, OF THE  
CUMBERLAND COUNTY CODE AND ADOPTING A REVISED CHAPTER 9.5,  
ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY CODE

WHEREAS, Cumberland County adopted an ordinance in 1993 (Cumberland County Code §9.5-91) prohibiting smoking in all county leased and owned buildings and vehicles, and within 25 feet of the entrance or exit to any public building; and,

WHEREAS, research indicates tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity; and

WHEREAS, Cumberland County wishes to minimize the harmful effects of smoking among County employees and eliminate secondhand smoke exposure for employees and the public in and on those buildings, vehicles, and grounds controlled by the County; and  
WHEREAS, the Cumberland County Smoking Ordinance has been codified as Chapter 9.5, Article III, Sections 9.5-90-98 of the Cumberland County Code; and

Whereas, the Board of Commissioners wishes to make a comprehensive revision of Chapter 9.5, Article III. Smoking. of the Cumberland County Code by the repeal of Chapter 9.5, Article III. Smoking, of the Cumberland County Code and the adoption of the Revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code as set

forth below; and

WHEREAS, the Board of Commissioners finds the comprehensive revision of Chapter 9.5, Article III. Smoking, of the Cumberland County Code to be in the public interest and to promote the public health, safety, and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby adopted.

Sec. 9.5-90. Purpose and intent.

Numerous reliable studies have found that tobacco smoke is a major contributor to indoor air pollution and have shown that breathing side-stream or secondhand smoke is a significant health hazard to nonsmokers. The Surgeon General of the United States has concluded that involuntary or passive smoking is the cause of disease, including lung cancer, in healthy nonsmokers and has estimated that involuntary smoking causes more deaths, approximately 5,000 per year, than all other airborne pollutants combined, excluding asbestos. The board of county commissioners recognizes the increasing evidence that smoke creates a danger to the health of some citizens and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present. The board of county commissioners also recognizes that research indicates that during active smoking outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity. The purpose and intent of this article is to promote the public health, safety and general welfare by prohibiting smoking within all county leased or owned buildings and vehicles and on designated grounds.

Sec. 9.5-91. Definitions.

The following terms, words, and phrases as used in this article are hereby defined as follows:

*County building* shall mean a building owned, leased as lessor, or the area leased as lessee and occupied by the County.

*Employee* shall mean a person who is employed by the County of Cumberland, or who contracts with the County or a third person to perform services for the County, or who otherwise performs services for the County with or without compensation.

*Enclosed area* shall mean the interior portion of a county owned or leased building.

*Grounds* shall refer to all unenclosed property surrounding county buildings.

*Public building* shall mean any enclosed area of any building or structure owned, leased, operated, maintained or managed, directly or indirectly, by the county.

*Smoke* or *smoking* shall refer to:

- (1) The carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
- (2) The possession of any burning tobacco, weed or other plant product; or

(3) The lighting of, emitting of, exhaling of the smoke of a pipe, cigar or cigarette of any kind.

Sec. 9.5-92. Smoking prohibited in public buildings and vehicles.

Smoking shall be prohibited within all public buildings and vehicles except the public areas of the Charlie Rose Agri-Expo Center. The public areas of the Charlie Rose Agri-Expo Center shall be limited to the lobby and the exhibit floor of the building. No smoking is to be allowed in the office portions of the Agri-Expo Building or in the restrooms, concession stands, or ticket booths. The Civic Center Commission is authorized and directed to develop rules and policies to regulate smoking at the Charlie Rose Agri-Expo Center. Smoking is permitted on the grounds of all public buildings not specifically designated herein as non-smoking grounds, but not within 25 feet of the entrance or exit of any public building.

Sec. 9.5-93. Smoking prohibited on designated grounds.

Smoking is prohibited on the grounds of the Department of Social Services building located at 1225 Ramsey St., Fayetteville, NC 28301 and the grounds of any County building where Cumberland County Health Department services are provided, including 130 Gillespie Street Fayetteville, NC 28301 (the Historic Courthouse); 103 Laketree Blvd. Spring Lake, NC 28390; 2622 Hope Mills Road Millview Place – Suite 100, Fayetteville, NC 28306; 1235 Ramsey Street Fayetteville NC 28301 (the primary Health Department facility); 227 Fountainhead Lane Fayetteville NC 28301; 109 Bradford Avenue Fayetteville NC 28301. Smoking is also prohibited on the grounds of county library facilities including the following: 300 Maiden Lane Fayetteville NC 28301; 3711 Village Drive Fayetteville NC 28304; 6882 Cliffdale Road Fayetteville NC 28314; 4809 Clinton Road Fayetteville NC 28312; 3411 Golfview Road Hope Mills NC 28348; 855 McArthur Road Fayetteville NC 28311; 101 Laketree Blvd. Spring Lake NC 28311; and 7469 Century Circle Fayetteville NC 28306.

Sec. 9.5-94. Posting of signs required.

"No smoking" with letters of not less than one inch in height or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every public building or other place where smoking is regulated by this article, by the public official having control of such building or other place. No person shall remove or deface any sign required to be posted by or under the authority of this article.

Sec. 9.5-95. Implementation Requirements

(a) The County shall remove all ashtrays and other smoking receptacles from grounds where smoking is prohibited.

(b) The person in charge of the grounds where smoking is prohibited, or his or her designee, shall direct a person who is smoking in a prohibited area to cease and, if the person does not comply, shall contact the designated enforcement officer for the County.

(c) The county shall provide county employees with resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).



Sec. 9.5-96. Enforcement and Penalties

(a) *Penalty for Violation.* Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A person duly authorized by the Board of County Commissioners shall be authorized to send a civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the County tax collector office within 14 days of receipt of the citation.

(b) *Additional sanctions for employees.* In addition to any penalty under subsection (a), employees of the County who violate this ordinance shall be subject to disciplinary action consistent with the County's human resources policies.

Sec. 9.5-97. Other applicable laws.

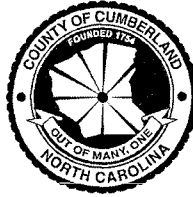
This article shall not be interpreted nor construed to permit smoking where it is otherwise prohibited or restricted by other applicable laws.

Sec. 9.5-98. Effective date.

This ordinance shall be effective the 1st day of January, 2014.

Adopted this 6<sup>th</sup> day of May, 2013.

RICKEY L. MOOREFIELD  
County Attorney



PHYLLIS P. JONES  
Assistant County Attorney

**OFFICE OF THE COUNTY ATTORNEY**

5<sup>th</sup> Floor, New Courthouse • PO Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829  
(910) 678-7762

**MEMO FOR THE AGENDA OF THE  
NOVEMBER 7, 2013 MEETING OF THE POLICY COMMITTEE**

**TO:** Policy Committee; Co. Manager; Ronnie Mitchell  
**FROM:** Co. Atty. *R. Moorefield*  
**DATE:** October 30, 2013  
**SUBJECT:** Ordinance Prohibiting Certain Activity On or Within 500 Feet of a School

**Requested by:** Sheriff Butler  
**Presented by:** County Attorney  
**Estimate of Committee Time Needed:** 10 minutes  
**Proposed Ordinance is Attached**

**BACKGROUND:**

Sheriff Butler has requested the Board to adopt the attached proposed ordinance entitled, "Prohibited Activity On or Within 500 Feet of a School." The Sheriff reports that this action was requested by Superintendent Till for the Cumberland County Board of Education and that this ordinance will also be considered by the governing boards of the municipalities in the county. The ordinance was drafted by Ronnie Mitchell, Counsel for the Sheriff.

**RECOMMENDATION/ACTION REQUESTED:**

County attorney recommends adoption of the ordinance.

## **Proposed Ordinance**

### *Prohibited Activity on or Within 500 Feet of a School.*

**Section 1.** No person shall (nor shall any group of persons) continuously walk, run or move about on any school property or any sidewalk, roadside, public vehicular area or other property, or wait, or stop, nor park or leave standing any vehicle for a period in excess of five (5) minutes, whether attended or unattended, except when allowed pursuant to the express written permission of the Superintendent of Schools or the duly appointed designee of the Superintendent or a valid permit for parade, assembly, march or protest issued by a competent governmental authority or when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or duly appointed school crossing guard or official traffic control device, within 500 feet of any school or school facility and particularly, including, but not limited to, any of the following places:

- (a) Within an intersection of any street or public vehicular area, particularly but not limited to an intersection with a school entrance or entrances, except adjacent to curbs as may be permitted by local ordinance.
- (b) On a crosswalk, except that a bus operated by the Board of Education or engaged as a common carrier may stop in a crosswalk to load or unload passengers when authorized by the Board of Education, its Superintendent or his designee or the County Board of Commissioners or the governing body of any affected city pursuant to an ordinance.
- (c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or paint on the curb, which sign or paint was erected or placed by local authorities pursuant to an ordinance.
- (d) Within 15 feet of the driveway entrance to any school.
- (e) In or in front of a public or private driveway, except that a bus engaged as a common carrier, school-bus, or a taxicab may stop to load or unload passengers when authorized by the Board of Education, its Superintendent or his designee or the County Board of Commissioners or the governing body of any affected city pursuant to an ordinance.
- (f) On any portion of a sidewalk, or with the body of the vehicle extending over any portion of a sidewalk, except when authorized by the Board of Education, its Superintendent or his designee, or by the Board of County Commissioners or the governing body of any affected city pursuant to an ordinance.

(g) On the road side of any vehicle stopped, parked, or standing at the curb or edge of a highway, except for a school bus when stopped to load or unload pupils or personnel.

(h) In or on any school parking lot, public vehicular area or other area of the school, without the authority or permission of the Board of Education, its Superintendent or the Superintendent's designee, or by the Board of County Commissioners or the governing body of any affected city pursuant to an ordinance.

For purposes of this ordinance, in an unincorporated area or unimproved portion of school property, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a road, easement, or driveway entrance, shall constitute a driveway.

For purposes of this ordinance parents, guardians or lawful custodians of a student, shall be presumed to have the permission of the Board of Education, its Superintendent or the Superintendent's designee, to enter the school's driveways and public vehicular areas and stopping, parking, and remaining on the premises for purposes of attending school activities or functions which such parents, guardians or lawful custodians of a student would ordinarily and customarily be expected to attend, including parent-teacher conferences, athletic events, and other school sponsored events.

**Section 2.** No person shall, with the intent to disrupt any school facility, function or activity, enter or go upon school property or within 500 feet of such school, facility or activity and engage in conduct which disrupts, disturbs or interferes with or clearly appears to present a clear and present danger that such conduct, act, or actions will disrupt, disturb or threaten the safety and security of students or personnel of the school facility or activity.

Any person who shall be a member of a street-gang who has been validated by the Office of the Sheriff to be a member of a street gang who shall be on any school property or who shall be on or in any of the places referred to in this Section or Section 1 of this ordinance shall be presumed to be in violation of this Section as well as Section 1 of this ordinance.

Any person who shall be on the school property or in any of the places referred to in this Section or Section 1 of this ordinance who shall have in his or her possession any form of weapon or any pyrotechnic or device capable of being readily made into any explosive or incendiary device or which is apparently capable of containing any such device, without lawful authority or permission to do so, shall be presumed to be in violation of this Section of this ordinance.

**Section 3.** The provisions of this ordinance shall not apply to law enforcement officers, fire

fighters, or other first responders or emergency personnel in the performance of their duties.

**Section 4.** A violation of any provision of this article shall be a misdemeanor punishable to the extent provided in North Carolina General Statutes, Section 14-4 , and the fine for such violation shall be in a sum imposed in the discretion of the court but in an amount less than five hundred dollars (\$500.00). Any person or corporation or other entity violating this ordinance shall be guilty of a Class 3 misdemeanor and, as provided, shall be fined not more than five hundred dollars (\$500.00). The maximum fine, for such violation, therefore, shall be in excess of fifty dollars (\$50.00) in accordance with the provisions of N.C.G.S. § 14-4(a).