

CUMBERLAND COUNTY POLICY COMMITTEE
JUDGE E. MAURICE BRASWELL CUMBERLAND COUNTY COURTHOUSE
117 DICK STREET, 5TH FLOOR, ROOM 564
NOVEMBER 2, 2017 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Charles Evans
 Commissioner Michael Boose
 Commissioner Larry Lancaster

OTHER COMMISSIONERS
PRESENT: Commissioner Jimmy Keefe
 Commissioner Jeannette Council
 Commissioner Marshall Faircloth

OTHERS PRESENT: Amy Cannon, County Manager
 Tracy Jackson, Assistant County Manager
 Sally Shutt, Assistant County Manager
 Melissa Cardinali, Assistant County Manager
 Duane Holder, Assistant County Manager
 Rick Moorefield, County Attorney
 Jeffery Brown, Engineering & Infrastructure Director
 Julean Self, Human Resources Director
 Joel Strickland, FAMPO Director
 Vicki Evans, Finance Director
 Ivonne Mendez, Financial Specialist
 Deborah Shaw, Budget Analyst
 Heather Harris, Budget Analyst
 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 – SEPTEMBER 7, 2017 REGULAR MEETING

MOTION: Commissioner Boose moved to approve the minutes from the September
 7, 2017 regular meeting of the Policy Committee as presented.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (3-0)

2. DISCUSSION OF PROCEDURES TO BE FOLLOWED BY INSPECTORS
 FOR THE ENFORCEMENT OF THE MINIMUM HOUSING CODE

BACKGROUND:

Policy Committee Chair Evans asked Planning and Inspections Director Tom Lloyd to provide the Policy Committee with an explanation of how the owner was represented by someone with a power of attorney in Minimum Housing Case MH1773-2017, heard August 21, 2017. At the time Policy Committee Chair Evans asked for this report, the Planning and Inspections Director had already asked the County Attorney to meet with inspections staff and discuss this issue and others that had recently arisen with respect to enforcement of the Minimum Housing Code. The County Attorney had proposed to create an outline of minimum housing code enforcement procedures and provide training to inspections staff on these procedures. For that reason, the Planning and Inspections Director asked the County Attorney to discuss this process with Policy Committee Chair Evans. Policy Committee Chair Evans asked the County Attorney to present that information to the Policy Committee.

The outline of the procedures is recorded below. The procedures are intended to ensure that all owners and parties of interest are served notice of the violations and hearing and that the structures which are demolished are in fact located at the address and on the parcel of land owned by the persons to whom notice was given. Determining ownership and location is often difficult for several reasons including incorrect tax mapping and listing information, multiple addresses on a single parcel, bad descriptions of the boundaries in the deeds, and ownership passing by inheritance without the estate being administered. The county attorney is working with Inspections staff to improve the forms used for these enforcement procedures. Even with better forms and a more uniform approach, enforcement of this ordinance is often going to take several months to complete.

In response to Policy Committee Chair Evan's specific question about an owner being represented by an attorney-in-fact, it is permissible if the county attorney determines that the power of attorney is valid. In the case that was heard August 21, 2017, the power of attorney was not valid and that case will not go forward except through a civil action with a guardian being appointed for the owner. To do so will increase the cost of this enforcement action considerably. It is a Town of Eastover case.

RECOMMENDATION/ACTION REQUESTED:

This was presented as information in response to Policy Committee Chair Evan's request and no action is requested from the Policy Committee.

**PROCEDURES TO BE FOLLOWED BY INSPECTORS FOR
THE ENFORCEMENT OF THE MINIMUM HOUSING CODE**

The County's Minimum Housing Code has been adopted pursuant to Part 6, Article 19, Chapter 160A of the General Statutes of North Carolina, and those statutes govern its implementation. Many of the properties found to be in violation of this Code have simply been abandoned and often it is difficult to determine who owns the property or

upon which parcel a structure is located. Even so, it is important to keep in mind that the demolition of these structures amounts to a taking of property by the county and the owners of these properties are always to be afforded the constitutional protection of due process. When an inspector has doubt about any aspect of the enforcement process, he or she should err on the side of caution and consult with the county attorney. The county attorney has set out below an outline of the basic processes to address recurring issues.

I. Inspections.

A Minimum Housing Code enforcement inspection shall be conducted in compliance with Section 4-83(a) of the Minimum Housing Code. An enforcement inspection shall only commence upon the filing of a written petition by one of the following:

- (1) the County or State Public Health Director;
- (2) the County or State Fire Marshal;
- (3) the County Planning Director;
- (4) the County Director of Community Development;
- (5) at least five (5) residents of the county;
- (6) the occupant of a dwelling that the occupant charges to be in violation;

or, whenever it appears to the inspector that any dwelling is in violation.

II. The Complaint.

- A. *Contents.* The complaint shall contain an itemized list of each violation of the Code which identifies the specific code sections found to be violated.
- B. *Report on Title.* The county attorney shall prepare a Report on Title for each property subject to an enforcement action. No enforcement action shall be commenced without obtaining a Report on Title. A copy of the Report on Title shall be attached to each complaint. This is necessary to explain the reason judgment creditors and other lien holders have been noticed as parties of interest.
- C. *Lis pendens.* A notice of lis pendens shall be filed with the Clerk of Court at the time a complaint is served on the owner and parties of interest.

III. Service of the Complaint and Notice of Hearing.

- A. *Service by posting.* A copy of the Complaint and Notice of Hearing shall be posted conspicuously on each structure on the property which has been found to violate any section of the Code.

- B. *Service by mail.* Service of the Complaint and Notice of Hearing by mail shall be made in accordance with Section 4-83(f) of the Code. Each owner and party of interest identified by the county attorney on the Report of Title shall be served separately by both regular mail and certified mail, return receipt requested, to the addresses shown on the Report of Title.
1. If the return receipt for the certified mail is returned signed by anyone, service is deemed sufficient for the owner or party of interest to which it was addressed.
 2. If the return receipt for the certified mail is unclaimed or refused, and the regular mail addressed to the same owner or party of interest is not returned within ten days of mailing, service is deemed sufficient for the owner or party of interest to which it was addressed.
 3. If the return receipt for the certified mail is unclaimed or refused, and the regular mail addressed to the same owner or party of interest is returned within ten days of mailing, service is not deemed sufficient for the owner or party of interest to which it was addressed. When service is deemed not sufficient for this reason, the owner or party of interest shall be served by publication.
- C. *Service by publication.* Service by publication shall be made as to all owners and parties of interest for which service by publication is directed on the Report of Title, and as to all owners and parties of interest for which the return receipt for the certified mail is unclaimed or refused, and the regular mail addressed to the same owner or party of interest is returned within ten days of mailing
- D. *Affidavit of service.* An Affidavit of Service in a form approved by the county attorney shall be prepared for each owner and party of interest for which service is attempted. All Affidavits of Service shall be made part of the enforcement file.

IV. The Hearing.

- A. *When all parties have been served.* All owners and parties of interest have a right to be heard at the hearing, and to appeal the order of the inspector.
- B. *When all parties have not been served.* If during the conduct of the hearing, the inspector discovers information indicating that there are owners or parties of interest that have not been served, the inspector shall conduct the scheduled hearing and give notice to the parties present that the scheduled hearing shall be continued to a date that is not less than thirty (30) days from the scheduled hearing in order to attempt service on

any unserved party and to give the unserved party an opportunity to be heard. The inspector shall consult with the county attorney as to the perceived deficiency in service and how to remedy it.

- C. *Representation by an attorney.* Any party may be represented by an attorney. An attorney representing an owner or party of interest shall file a written notice of appearance which identifies all parties represented by the attorney and provides the attorney's mailing address and State Bar Number.
- D. *Representation by someone other than an attorney.* If anyone other than an attorney appears on behalf of an owner or party of interest, the person appearing must file a written document signed by the party being represented indicating the appointment of the representative. Examples of such appointments include a power of attorney and an agent. The hearing must be continued as to the party being represented by someone other than an attorney and the inspector shall consult with the county attorney as to the validity of the appointment. The county attorney shall advise the inspector how to proceed.
- E. *Persons with special needs.* If it appears to the inspector that any owner or party of interest appearing at the hearing has a handicap or disability that substantially impairs his or her ability to communicate by ordinary hearing and speech, the hearing shall be continued as to such person and the inspector shall consult with the county attorney. The county attorney shall advise the inspector how to proceed.

V. Special Circumstances.

The county attorney shall advise in the Report on Title of any special circumstances affecting an enforcement action. Examples of such special circumstances include:

- (1) the property is subject to civil litigation such as a tax or mortgage foreclosure, condemnation or boundary dispute;
- (2) one of the owners or parties of interest is incompetent or is a minor;
- (3) one of the owners or parties of interest is in a bankruptcy proceeding;
- (4) the property must be surveyed to determine whether the structure for which demolition is sought is located upon it; or
- (5) the dwelling found to be in violation is a manufactured home which is not owned by the owner of the land upon which it is sited.

If a special circumstance is indicated, the inspector shall follow the instructions provided by the county attorney. Any questions on the procedures to follow should be directed to the county attorney.

Rick Moorefield, County Attorney, reviewed the background information, recommendation and “Procedures to be Followed by Inspectors for the Enforcement of the Minimum Housing Code” as recorded above.

Commissioner Boose stated he feels this is a great process and very clear. Commissioner Evans stated he appreciates the work Mr. Moorefield put into this issue. No action necessary or taken.

3. CONSIDERATION OF RESOLUTION SUPPORTING THE OZONE ADVANCE PROGRAM

BACKGROUND:

The Fayetteville Area Metropolitan Planning Organization (FAMPO) Air Quality Stakeholders is requesting a resolution seeking continued support of the existing Ozone Advance Action Program. This program is a collaborative effort among local governments, agencies, and other groups interested in protecting and improving the air quality of Fayetteville and Cumberland County. The proposed resolution is recorded below.

RECOMMENDATION/PROPOSED ACTION:

Staff recommends approval of the proposed resolution and further consideration by the full Board of Commissioners as a Consent Agenda item at the November 20, 2017 regular meeting.

RESOLUTION SUPPORTING THE OZONE ADVANCE PROGRAM

RESOLUTION 2017-01

WHEREAS, the federal Clean Air Act, through the Environmental Protection Agency (EPA), establishes air quality standards to protect public health and welfare; and

WHEREAS, Cumberland County has acknowledged the importance of these standards in promoting quality of life, economic development, and future healthy development; and

WHEREAS, Cumberland County is currently attaining the 2015 federal ozone standard of 0.070 parts per million (ppm); and

WHEREAS, in 2003 the Cumberland County Board of Commissioners partnered with all its municipalities to participate in the EPA's Early Action Compact and created the Air Quality Stakeholders of Cumberland County to proactively improve air quality for our citizens; and

WHEREAS, EPA, in conjunction with state governments, business, industry, and environmental interest, has developed an option known as an "Ozone Advance Program," through which an area, in partnership with the North Carolina Department of Environmental and Natural Resources and EPA, can voluntarily improve conditions through strategies developed through an Action Plan to help avoid a designation of non-attainment; and

WHEREAS, the benefits of participating in an Ozone Advance Program include: clean air sooner, potentially avoiding non-attainment designation; preference during EPA federal grant allocations; flexibility to achieve standards in cost effective ways; development of local standards in partnership with stakeholders and the state, and other benefits;

NOW, THEREFORE, BE IT RESOLVED, that Cumberland County supports the Ozone Advance Program and will participate in the development and implementation of an Action Plan with the purpose of reducing ground-level ozone concentrations.

Joel Strickland, FAMPO Director, reviewed the background information, recommendation and proposed resolution recorded above.

MOTION: Commissioner Lancaster moved to recommend to the full board approval of the proposed resolution supporting the Ozone Advance Program.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (3-0)

4. CONSIDERATION OF AMENDMENT TO PERSONNEL ORDINANCE ARTICLE VI

BACKGROUND

Since July 1, 2001, the County tracked leave balances in the automated system known as Advantage in the format of hours and minutes (4 hours and 30 minutes was shown as 4.30). The County converted to a new system known as Munis on October 1, 2016. Leave balances are now reflected in a decimal hour format (4 hours and 30 minutes shown as 4.5). This has slightly adjusted our leave tables.

Based on their work schedule, Cumberland County Sheriff's Office law enforcement officers accrue annual leave at a rate slightly higher than civilian employees. For reference purposes, this table has been added to the current ordinance.

RECOMMENDED/PROPOSED ACTION

Human Resources recommends that these leave adjustments be made to reflect the accurate rates and format of leave accrual for all staff as reflected by Munis. These adjustments are reflected in Article VI Section 606 and 607.

**BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY
ORDINANCE AMENDING ARTICLE VI SECTIONS 606 AND 607 OF
THE CUMBERLAND COUNTY PERSONNEL ORDINANCE**

Be it ordained by the Board of Commissioners that the Cumberland County Personnel Ordinance, formerly codified as Chapter 10 of the Cumberland County Code, Personnel, is hereby amended as follows:

FIRST AMENDMENT:

Article VI Section 606(b), Annual leave, is amended to update the table containing the accrual rates due to the new system, Munis, accruing leave at a rate rounded at the ten-thousandths decimal place by repealing existing *Article VI subsection 606(b)*, and adopting in its stead the following new subsection *Article VI subsection 606(b)*:

(b) All employees subject to the Local Government Employees' and Law Enforcement Officers' Retirement Systems who are in pay status for ten or more workdays, 80 hours, in a pay period earn annual leave. The following table indicates the amount of annual leave accrued per pay period based on years of Cumberland County service for regular employees:

<u>Years of Completed Aggregate Service</u>	<u>Hours Earned Each Pay Period</u>	<u>Days Earned Annually</u>
0-2	3.7000	12.0250
2	4.6167	15.0043
5	5.5500	18.0375
10	6.4667	21.0168
15	7.4000	24.0500
20	8.3167	27.0293

(c) The following table indicates the amount of annual leave accrued per pay period based on years of ***Cumberland County*** service for ***Law Enforcement Officers Only***.

<u>Years of Completed Aggregate Service</u>	<u>Hours Earned Each Pay Period</u>	<u>Days Earned Annually</u>
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0-2	3.9500	12.0117
2	4.9333	15.0018
5	5.9333	18.0428
10	6.9167	21.0332
15	7.9000	24.0234
20	8.8833	27.0135

SECOND AMENDMENT:

Article VI Section 607, Sick leave, is amended to update the amount of sick leave accumulated per pay period to reflect current rate from new system, by repealing existing *Article VI Section 607(a) Sick leave credits*, and adopting in its stead the following new subsection *Article VI Section 607(a) Sick leave credits*:

(a) *Sick leave credits*. All employees participating in the Local Governmental Employees Retirement system must be in pay status the entire bi-weekly pay period (80 hours for standard work schedule employees and 85.5 hours for law enforcement/detention officers) to accrue sick leave as follows:

Standard Schedule Employees accrue 3.70 hours per pay period/96.20 hours (12 days) annually

LEO/Detention Officers accrue 3.95 hours per pay period/102.70 hours (12 days) annually

Employees whose normal work week is less than 40 hours per week shall earn sick leave proportionally.

Julean Self, Human Resources Director, reviewed the background information, recommendation and draft ordinance amendment as recorded above.

MOTION: Commissioner Lancaster moved to recommend to the full board approval of the amendment to the Personnel Ordinance so the leave adjustments reflect the accurate rates and format of leave accrual for all staff as reflected by Munis in Article VI Section 606 and 607.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (3-0)

5. OTHER ITEMS OF BUSINESS

No other items of business.

MEETING ADJOURNED AT 11:31 AM