

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
February 19, 2001, 7:00 PM
REGULAR/REZONING MEETING
CUMBERLAND COUNTY COURTHOUSE
FAYETTEVILLE, NC

PRESENT: Chairman, J. Lee Warren, Jr.
Vice Chairman, J. Breeden Blackwell
Commissioner Talmage Baggett
Commissioner Jeannette Council
Commissioner Kenneth S. Edge
Commissioner John Henley
Commissioner Billy R. King
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy H. Cannon, Assistant County Mgr.
Cliff Spiller, Assistant County Manager
Grainger Barrett, County Attorney
Barry Warren, Planning Director
Tom Lloyd, Planning Department
Rhonda C. Raynor, Deputy Clerk

INVOCATION: Commissioner Kenneth S. Edge

PLEDGE OF ALLEGIANCE

Recognition of Outgoing Board/Committee Members:

Sue Evans	Civic Center Commission
Dr. John A. Lauby	Board of Health

Agenda Adjustments:

Mr. Martin advised the Board of the following agenda adjustments:

- Item numbers 1-B (P01-03) and 1-C (P01-04) have had some opposition expressed and need to be moved to the Contested Rezoning Cases portion of the agenda.
- Delete Item 2-E from the agenda.
- An additional item needs to be added to the list of Closed Session items (8-C. Attorney-Client Matter)

1. PUBLIC HEARINGS:

Uncontested Rezoning Cases:

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminatory and in the public interest and that the property within such proposed districts is suitable for all uses permitted by the new classifications, the following motion was offered for the uncontested rezoning case:

MOTION: Commissioner Baggett offered a motion to follow the Planning Board recommendation in Case # P01-01.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

- A. Case No. P01-01.** The rezoning from M(P) Planned Industrial to C(P) Planned Commercial and R6A Residential, or to a more restrictive zoning district, on the south side of Cumberland Road, on the west side of the railroad, the property of Ruby O. Jones.

The Planning Board recommends approval of the rezoning to C(P) Planned Commercial and R6A Residential.

Contested Rezoning Cases:

- B. Case No. P01-03.** The rezoning from PND Planned Neighborhood Development and RR Rural Residential to C(P) Planned Commercial, or to a more restrictive zoning classification, located at the intersection of S. Raeford Road and Gillis Hill Road, the property of Dan T. Barker.

The Planning Board recommends approval of the rezoning to C(P) on the current PND and R10 on the RR portion.

Speakers:

1. Mr. David Evans. Speaking in opposition. He noted the letter presented from the Lancaster at Westin Homeowners Association. He mentioned the number of conditions placed on the rezoning of the property for the proposed Bi-Lo grocery store that was recently heard by the Commissioners. The homeowners in the area of the subject property are very concerned that the rezoning will result in an increase in trash, lighting, parking lots and traffic. If a Super Wal-Mart is built at this tiny intersection and other commercial development takes place, the traffic will be too much for the current road system. The residents feel there is enough commercial development in the area at this time. There is currently a great deal of undeveloped commercial property in the area.

Commissioner Blackwell noted his concern that he had just received the information from the Lancaster at Westin Homeowners Association and the Planning Board minutes indicate there was no opposition when the case was heard. There were not any members from the community at this meeting.

Mr. Evans stated he was unaware of the Planning Board hearing. The homeowners contacted him because his company developed the Lancaster at Westin Subdivision. Also, the property owners have their names listed on the letter presented to the Commissioners.

Commissioner Baggett noted the hearing Mr. Evans referred to about the property at Cliffdale and Raeford Roads for the proposed construction of a Bi-Lo supermarket was a conditional use overlay request. That type of request gives the Commissioners the authority to place conditions on the property owners. The petitioner in this zoning request has asked for the property to be rezoned. That does not leave the Board of Commissioners any room to place conditions on the rezoning.

2. Mr. Stacy Weaver. Speaking in favor of the rezoning and representing the owners. He advised that CP zoning was requested because this property is a logical site for a shopping center development. There is demand at this location for that type of development. He noted approximately 250 people would be employed at this center and the improvements will expand the tax base. The property is currently in the farm program and the taxes paid will increase significantly with the planned improvements. He noted the population within a five-mile radius of the area is approximately 70,399. He noted there are already buffers between the property and the homeowners. The Planning Board had a great deal of careful discussion before voting to approve this rezoning. There was no opposition at the time of the Planning Board hearing. This rezoning makes good planning and business sense.

Commissioner King asked why the Planning Staff recommended denial of the rezoning.

Mr. Lloyd advised that the planning staff felt there was enough commercial development already available in this area.

MOTION: Upon finding the request to be reasonable, neither arbitrary or unduly discriminatory and in the public interest and that the property within such proposed district is suitable for all uses permitted by the new classification, Commissioner Edge offer a motion to follow the recommendation of the Planning Board and approve C(P) zoning on the current PND and R10 zoning on the current RR portion of the property.

SECOND: Commissioner King

DISCUSSION: Commissioner Baggett asked how far the subject property was from the county line.

It was noted the subject property was approximately two (2) miles from the county line.

Commissioner Baggett expressed concern that if this rezoning is not approved, the developers may build the shopping center in Hoke County.

Commissioner Warren stated he had some concerns about the adjacent neighborhood, however, the rear of the property has been left at the R10 zoning which is residential. This will further buffer the neighborhood.

VOTE: UNANIMOUS

Commissioner Henley arrived at the meeting.

- C. Case No. P01-04.** The rezoning from RR Rural Residential to R6 Residential, or to a more restrictive zoning classification, located on the south side of Morganton Road, on the east side of Timberlake Drive, the property of Mary M. Plummer.

The Planning Board recommends approval of the rezoning to R6 Residential.

Speakers:

1. Chuck Weber. Speaking in favor of the rezoning. Mr. Weber noted he has a contract to purchase the property if the rezoning is approved. He wants to build 240 units of high-end apartments on the site. The buildings would only have two levels and he will seek annexation into the City of Fayetteville in order to receive public water and sewer. The property is located between Fort Bragg and Cross Creek Mall. There is currently very little multi-family land use planned in this area. He believes the highest residential density should be located near the largest employer in the County. The property is also located on a highly traveled thoroughfare. He has a written agreement from the owners stating he will not build on the front portion of the property. What he is proposing will have a positive economic impact on the County as it will add \$12-\$13 million to the tax base. The streets will be privately maintained and private trash pickup will be provided. There will also be a security gate at the entrance to the complex. The complex will place minimal stress on the County's infrastructure.

2. Fred Plummer. Speaking in favor of the rezoning. He advised that he farmed the subject property until the late 1980's. He can no longer farm and the property has become a liability. He will continue to live on a portion of the land.

3. Paul Furrer. Speaking in opposition. Mr. Furrer stated he lives next to the subject property. The rezoning from R10 to R6 concerns him. He is concerned that his property value will go down. He is also concerned with the increase in traffic. He enjoys his peaceful surroundings.

Mr. Weber noted the primary entrance to the complex will be located on Morganton Road.

Commissioner Baggett commented that Mr. Weber's developments are known for their high quality.

MOTION: Upon finding the request to be reasonable, neither arbitrary or unduly discriminatory and in the public interest and that the property within such proposed district is suitable for all uses permitted by the new classification, Commissioner Baggett offer a motion to follow the recommendation of the Planning Board and approve the rezoning request.

SECOND: Commissioner King
VOTE: UNANIMOUS

- D. Case No. P01-02.** The rezoning from R6A Residential to C3 Heavy Commercial, or to a more restrictive zoning classification, located at the intersection of Wilkes Road and Draughtone Road, the properties of H. L. Holt, J. Cox, J. Patterson, L. Tyndall and F. McLean.

The Planning Board recommends denial of the C3 Heavy Commercial District and approval of C(P) Planned Commercial District.

Speakers:

1. Bill Maxwell. Speaking in favor of the rezoning, representing the owners. He noted there are seven-(7) tracts that they are trying to consolidate. He has been trying to sell these properties for five years, but because of the zoning and the heavy traffic, it has been difficult. Commercial development around these properties has helped with the tax base. He would like

to have the properties zoned C(3) because it would allow greater density. If a hotel was built on the properties, CP zoning would make it difficult to put in the necessary parking, etc.

Commissioner Baggett asked if Draughtone Road will be closed.

Mr. Maxwell stated he was not sure yet whether or not Draughtone Road would be closed. He is not sure what the Department of Transportation will do. The owners would be glad to do some type of land swap or sale for a right-of-way.

County Attorney, Grainger Barrett noted the County's portion of Draughtone Road was closed.

Commissioner Blackwell asked if the development of the subject properties would affect the Pro Performance Shop.

Mr. Maxwell advised the development would not affect the Pro Performance Shop.

MOTION: Upon finding the request to be reasonable, neither arbitrary or unduly discriminatory and in the public interest and that the property within such proposed district is suitable for all uses permitted by the new classification, Commissioner King offer a motion to approve the C3 rezoning request.

SECOND: Commissioner Baggett

DISCUSSION: Commissioner Council asked what differences besides density there were between C(P) and C3 zoning.

Mr. Lloyd stated C3 allows adult entertainment and billboards.

Mr. Maxwell stated the owners have no plans to have adult entertainment on the property.

VOTE: UNANIMOUS

Other –

- E. **Minimum Housing Hearing: MH595-99.** Tommie & Sunclairay T. Turner, 1009 Patrick Drive, PIN: 9487-20-5730.

Affidavit of the Housing Inspector's Report

I, Doyle W. Hubbard, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

BACKGROUND: That the following is a report on case number MH 595-00 and is identified as Item Number 1E.

Property Owner: **Tommie V. & Sunclairay T. Turner**

Tax Parcel Identification Number: 9487-20-5730

SYNOPSIS: This property was inspected on 1/12/99. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 11/14/00. No party of interest attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 1/5/01. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order, through publication. No appeal was filed.

Upon my visit to the property on 2/8/01 and 2/19/01 no corrective action had been made to the structure. The structure is presently vacant and unsecured. In its present state, this structure constitutes a fire, health and safety hazard.

The estimated cost to repair this structure to a minimum standard for human habitation is \$29,200.00. The Assessor for Cumberland County has this structure presently valued at \$11,540.00.

RECOMMENDATION: It is the recommendation of the Inspection Department that the structure be demolished, and the debris removed from the lot.

MOTION: Commissioner Blackwell offered the following motion:
To adopt the order and report of the Minimum Housing Inspector as the true facts in this case, and

To order the property owner to remove or demolish the dwelling within 90 days.

To order the Inspector to remove or demolish the dwelling, if the owner fails to do so and impose a lien on the real property for the cost of such action.

To direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Henley

DISCUSSION: Commissioner Council asked for the approximate cost to demolish the dwelling and where the funds would come from.

Mr. Hubbard stated the County would ask for bids to do the work. He estimated the cost at \$5,000. The County would pay the costs and the Legal Department would then place a lien on the property.

Commissioner King asked how structurally sound the property was.

Mr. Hubbard stated that there had been a fire inside the property and the damage was extensive.

Commissioner King stated he felt there were other buildings in the County in much worse shape than the house being discussed.

VOTE: Favor: Commissioners Henley, Edge, Blackwell, Warren and Baggett
Oppose: Commissioners Council and King

F. Consideration of Revisions to the Cumberland County Zoning Ordinance Regarding "Borrow Source Operations":

- (1) Case P01-14.** Consideration of Revisions and Amendments to the Cumberland County Zoning Ordinance, Article III, Section 3.1, "Table 1-A-1," by deleting "Borrow Source Operations" from "Permitted Uses" and inserting it alphabetically under "Specified Conditional Uses" in the A1 Agricultural District; Article III, Section 3, "Specified Conditional Uses," by adding "3.57. Borrow Source Operations," and Article X, Section 10.2, "Definitions of Specific Terms and Words," by revising the definition of "Borrow Source Operations." OR

The Planning Board recommends approval of the amendment.

- (2) Case P01-19.** Consideration of Revisions and Amendments to the Cumberland County Zoning Ordinance, Article II, Section 3.1, Tabulation of Permitted Uses, Tables 1-A-1, 1-G and 1-J by deleting "Borrow Source Operations" as permitted use in the A1 Agricultural District and as a Specified Conditional Use in the HS(P) Planned Highway Service District, the M(P) Planned Industrial District and the M2 Heavy Industrial District; and inserting in Article IV, Overlay Districts, Section 4.24, Table of Conditional Uses, (2) "Borrow Source Operations."

Speakers:

1. Clinton Harris. He stated the dust and gravel coming from uncovered trucks hauling sand and gravel from borrow pits causes many health and safety hazards. He believes there is a simple solution to the problem. The County should recommend to the State that the trucks hauling the sand and gravel must meet certain standards and require the trucks to be inspected.
2. John F. Street, Jr. He stated there are ten acres in Linden off Palestine Road that have had a borrow pit in operation for years. The roads in the area are deteriorating. A local timber company has also contributed to the decline of the roads. He has spoken with the Department of Transportation and other State agencies with no positive results. He feels these companies should be required to submit environmental plans in order to

remain in business. He and his neighbors have had to suffer with severe dust, broken car windows, etc.

3. Graham T. Moore. Mr. Moore works with Crowell Construction Company in Fayetteville. He would like to recommend that the Planning Board's revision to the ordinance be approved. He stated he worked with the Planning Board and the issues mentioned by the first two speakers are addressed in the Planning Board's revision to the ordinance. He feels the Board of Commissioners should use the Planning Board and the Board of Adjustment to handle these cases and problems before they get to the Board of Commissioners. The Planning Board's revisions will make borrow pits tougher to maintain. Due to the restrictions, the County may never have any new borrow pits. The use of borrow pits is an economic issue. Every school, building and other construction project has an earth pad that is constructed with borrow from off-site pits.
4. Raymon Yarborough. He stated that businesses and the community should work together. He is concerned the conditions on the borrow pits are not strong enough. He sees no value of requiring adjoining property owners to be notified of these pits if they have no recourse. He believes there is already a requirement in place to cover these trucks. Why is it not being enforced? He asked who would enforce the new rules and what the fines would be. He does not think there are enough restrictions. Cumberland County has one third of the sandpits in the state. Eastover has the most sandpits in the County. The road traffic has caused a dangerous situation. He urged the Commissioners to make sure that the rules have teeth and that they will be enforced.

Commissioner Baggett expressed his concern with the number of borrow pits on River Road and Palestine Road. He noted the local borrow pit operators do a good job and try to do what is required of them. However, there are out-of-County operators that take advantage of a lax State application. There are loopholes in the state regulations. The existing rules are not being enforced. Enforcement is the problem. The Highway Patrol, Sheriff's Office and Division of Motor Vehicles do what they can. After speaking with some of the industry representatives, he feels that the Specified Conditional Use is the best way to handle the situation. He noted some local companies want to help get the speed limit lowered on River Road and enforce the covering of loads. He feels the ordinance change addresses the problems.

MOTION: Commissioner Baggett offered a motion to approve Case P01-14 as recommended by the Planning Board.

SECOND: Commissioner Henley

DISCUSSION: Commissioner Henley stated the situation caused by these borrow pits is intolerable. The pits are a necessity for the County and the problem is an enforcement issue. He asked the County Attorney if the amendments went far enough to help monitor the covering of trucks, watering of roads and speed limits.

Mr. Barrett advised that the County will need active cooperation from the Sheriff's Office to enforce this ordinance. The Board is considering a zoning provision. If a company violates the ordinance, the County can have the permit revoked. The County is involved in monitoring compliance. The County has zoning inspectors that can assist with monitoring. No one agency can flood one particular area. A combination of agencies can help monitor these pits. He suggested that the State Department of Environment Health and Natural Resources could assist with enforcement and the State may be able to provide a memorandum of understanding that will assist with the speeding problem and violations of mining permits.

Commissioner Henley stated he is comfortable with the regulations, but he is concerned about ensuring the ordinance is followed.

Mr. Barrett stated the ordinance change makes the possibility for enforcement greater.

Commissioner Edge thanked the contractors for their assistance to change the ordinance. He suggested that it would be helpful if the County Attorney forwarded letters to the DOT and the Sheriff's Office to remind them that we need help to enforce these regulations.

Commissioner Warren stated there is a serious problem on River Road. The road surface has deteriorated and several serious accidents have barely been avoided. The residents in the area have had to endure undue hardships. Borrow source materials are needed. Local operators are making a good effort to work with their neighbors. Other operators from outside the County aren't trying to do the best that they can to be good neighbors. He does not feel the ordinance changes have enough teeth, but feels they are better than current regulations. He noted the County regulations do not affect DOT projects that can tie up some borrow pits for ten years. He believes adopting rules that the industry can live with will help self-policing. He asked that the industry help with a

request to the DOT for the speed limit on River Road to be lowered to 45 miles per hour. This is an opportunity for the industry to join with the County to help this problem.
VOTE: UNANIMOUS

2. Consent Agenda

Commissioner Henley asked that item 2-D be pulled from the Consent Agenda.

MOTION: Commissioner Council offered a motion to follow staff recommendations on the items on the Consent Agenda with the exception of Item 2-D.
SECOND: Commissioner King
VOTE: UNANIMOUS

A. Approval of minutes for the February 5, 2001 regular meeting.

ACTION: Approve the minutes.

**B. Ordinance Assessing Property for the Costs of Demolition: MH572-98
Ronnie Jamison, 4023 Catherine Drive, PIN: 0434-21-6680.**

ACTION: Adopt the Ordinance.

ORDINANCE ASSESSING PROPERTY FOR THE COSTS OF DEMOLITION OF A STRUCTURE PURSUANT TO THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on April 17, 2000, enacted an ordinance directing the demolition by the owner(s) of the structure(s), Ronnie Jamison located at 4023 Catherine Drive, Fayetteville, NC 28306 (PIN: 0434-21-6680, old PIN: 0434-21-6502), said ordinance being recorded at Book 0434, page 6502, of the Cumberland County Registry of Deeds;

WHEREAS, the time within which said demolition was to be performed has expired and the owner(s) failed to comply with the ordinance within such period; and

WHEREAS, the said ordinance further directed the Minimum Housing Inspector to effect the demolition of the structure(s) in the event the owner(s) failed to do so;

WHEREAS, the Minimum Housing Inspector has reported to this Board that:

- (1) Said work has been accomplished.
- (2) The cost of such work was \$2,000.00.
- (3) There were no salable materials resulting from said work.

NOW, THEREFORE, the above report coming on to be considered and the Board of Commissioners finding it to be a true and accurate accounting, the said Board hereby **ORDAINS**:

(1) That the real property on which the work was performed be, and it hereby is, assessed in the amount of 2,000.00, said sum being the unpaid balance of the cost of the work set forth in the Inspector's Report;

(2) That as provided in the Ordinance of Cumberland County dated April 17, 2000, and in Section 160A-443(6) of the General Statutes of North Carolina, the amount of the foregoing assessment be, and hereby does constitute, a lien against the real property upon which such costs were incurred, such property being more particularly described as follows:

The structure and premises located 4023 Catherine Drive, Fayetteville, NC, .67 acres Swanson Land, as described in Deed Book 4603, page 715, of the Cumberland County Registry and identified in County tax records as PIN 0434-21-6680, old PIN: 0434-21-6502.

(3) That as further provided in Section 160A-443(6) of the General Statutes of North Carolina, such lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of said General Statutes;

(4) That one copy of this resolution be filed in the minutes of this Board of Commissioners and another copy certified and delivered by the Clerk as a charge to the Tax Collector, who shall thereupon enter the amount of the assessment set forth above upon the Tax Books of the County as a special assessment against the above described property.

C. Approval of Bid Award for J. P. Riddle Stadium Seating Expansion Project.

BACKGROUND

Bids were received on January 30, 2001, for the J/ P. Riddle Stadium Seating Expansion Project, however, an insufficient number were submitted. The project was re-bid on February 6, 2001 and a bid tabulation was prepared by the project engineer, Fleming Associates. The bid tabulation is as follows:

Contractor: Southern Bleacher Co., Inc., P.O. Box One, Graham, TX 76450
Bid Bond: 5%
Base Bid: \$150,680.00
ALT. 1
Canopy: \$22,590.00
Total Bid: \$173,270.00

Southern Bleacher Company submitted the only bid in the amount of \$150,680.00 for the base bid and \$22,590.00 for the alternate canopy. The scope of work in the base bid includes the installation of grandstand bleachers to be located behind the backstop and a new pressbox that is an integral part of the grandstand structure. The new bleachers will add 308 bench seats with a backrest and increase the stadium capacity to 2,142 seats. The alternate bid was taken for a canopy structure that would cover the new bleachers. Due to cost constraints, staff is not recommending the bid be accepted for the canopy. This project is being funded from the settlement monies received from the Fayetteville Crocs supplemented by Recreation Department monies.

ACTION:

1. **Accept the bids for the J. P. Riddle Stadium Seating Expansion Project and award a contract to Southern Bleacher Company in the amount of \$150,680.00 for the base bid work.**
2. **Approve the associated budget revision.**

E. Approval of Bid Award for Boiler Replacement at Cumberland County Auditorium.

This item was deleted from the agenda.

F. Approval of Lease and Franchise Renewal with Windows of Opportunities for Recreation Concessions at Arnette Park.

BACKGROUND

On January 3, 2000 Cumberland County Parks and Recreation Department entered into a Lease and Franchise Agreement with Windows of Opportunities Vocational Training, Inc. to operate the concession building at Arnette Park. The lease was through December 31, 2000. The purpose of the agreement was to provide packaged food, beverages and souvenir products at the concession building during county-sponsored events at Arnette Park. Windows of Opportunities was required to maintain liability insurance, provide all necessary equipment and licenses, and keep the concession building and accompanying grounds clean and free of litter. Conditions in the agreement also required the Franchisee to submit 23 percent of the gross sales to the County. The contract has been reviewed for legal sufficiency.

ACTION: Renew the Lease and Franchise Agreement with Windows of Opportunities Vocational Training, Inc. for a one-year term.

G. Approval of Settlement of Cumberland County vs. Bank of Tokyo Regarding the BCH Project.

BACKGROUND

The County Attorney reports that the action to recover on the Letter of Credit posted to protect the County against damages arising out of the BCH project has been settled. The consortium of banks which issued the letter of credit, led by Bank of Tokyo [which rejected the County's attempt to file against it prior to its expiration in 1998] have agreed to settle this matter for \$812,063.00 in return for a dismissal of all claims.

The County previously retained Neil Yarborough to file this lawsuit to enforce an arbitration award, which the County Attorney had obtained on the County's behalf in the amount of \$1,998,254 plus interest. He conducted extensive review and research of the voluminous documentary history of this project, prepared a lengthy and very thorough complaint which was filed in the United States District Court for the Eastern District of North Carolina, and researched and filed a reply brief to the defendant's brief to dismiss eight of the nine causes of action asserted in the County's complaint.

As the Board is aware, the Bank of Tokyo initiated a settlement overture to Mr. Yarborough. This settlement is within the settlement authority given by the Board to the County Manager and Mr. Yarborough. We believe this is a favorable result for the County, given the uncertainty of any outcome, the anticipated cost of litigation and the delay in any result with the probability of appeals.

ACTION: Authorize management to file the report of final settlement with the minutes of the Board's regular meeting of February 19, 2001.

H. Approval of Revised Cumberland County Economic Development Investment Policy.

BACKGROUND

The Board adopted an Economic Development Inducement Policy in November, 2000. Some recent discussion amongst the FAEDC President, the County Manager and the County Attorney suggests it would be desirable to the community's economic development program and competitiveness to consider an adjustment to the threshold criteria for eligibility. The revisions would allow the Board to consider awarding economic development inducements to projects that have significant job creation impact, as well as to projects that have significant capital investment impact.

A revised economic inducement policy that would adjust the thresholds which projects must meet to qualify for consideration has been prepared. The FAEDC unanimously voted at its meeting on February 13, 2001 to recommend approval of it to the Board of Commissioners.

At the bottom of page 5 carrying on to page 6, the revisions offer alternative minimum thresholds for a project to qualify for consideration. A project can either (A) meet a reduced capital investment threshold of \$2.5 million for a new project or \$1.0 million for an expansion of an existing facility, as well as provide at least 25 jobs for a new project or 5 jobs for an expansion of an existing facility, or (B) create at least 100 jobs for a new project or 20 for an existing facility.

The revisions on page 3 of the policy make more explicit that the County's inducement can be measured by the return to the County of those revenue streams allowed by G.S. 158-7.1(d)(2). Thus, the County may take into account property tax returns, sales tax proceeds, as well as any other tax revenues or income coming to the County as a result of the conveyance.

The policy contains a sentence that a project must meet all of the project minimum qualifications set forth under "Minimum Project Qualifications." The last sentence also allows the Board to add requirements above the minimum qualifications.

The current policy includes an effective date of November 20, 2000. It is the opinion of the County Attorney that by leaving that sentence in as the Board adopts the revised policy, the revisions will apply back to November 20, 2000.

ACTION: Adopt the revised Economic Development Inducement Policy.

I. Budget Revisions:

- (1) **General Government-Other**
Revision to appropriate fund balance in the amount of \$8,897 to budget contributions received from previous years for the Peace Officers Monument. (B01-465) **Funding- Fund Balance Appropriated**
- (2) **Inspections**
Revision in the amount of \$3,476 to budget for the reclassification of one Plumbing Inspector from level II to level III. (B01-466) **Funding Source- County**
- (3) **LaFayette Fire District**
Increase in revenue and expenditures in the amount of \$200 to fund unanticipated increase in tax refunds. (B01-475) **Funding Source- Fire Tax**

Items of Business

D. **Approval of Bid Award for Sports Facility Improvements at Cape Fear, Jack Britt and Pine Forest High Schools.**

BACKGROUND

On January 16, 2001, the County entered into an agreement with Crawford Design Company to provide engineering and design services for installing sports lights on baseball and softball fields located at Cape Fear, Jack Britt and Pine Forest High Schools. Cumberland County Schools has committed to paying half the design and construction costs. Bids were solicited and four responses were received on February 8, 2001:

	<u>Jack Britt</u>	<u>Cape Fear</u>	<u>Pine Forest</u>	<u>Total</u>
King Electric	\$169,969	\$ 47,212	\$144,623	\$631,804
Skan Electric	\$159,325	\$ 39,500	\$136,880	\$335,705
Tommy Lawrence Electric	\$151,555	\$ 48,307	\$142,795	\$342,653
Walter Holmes Electric	\$159,732	\$ 47,658	\$138,408	\$345,798

If approved, facilities should be operational by late spring or early summer, 2001.

Commissioner Henley stated that due to budget constraints he feels the cost is too significant to light three ball fields at this time.

Commissioner Warren stated there are a number of high schools around the County. Cumberland County has more school children than most counties in the state. Juvenile crime is a problem and recreation projects help reduce juvenile crime. Most of the lighted fields are in the City of Fayetteville. He feels all children should have the same opportunities.

Commissioner Edge stated this project will complete the lighting of fields at all the high schools.

Larry Philpott, Recreation Director stated this project will complete the lighting of all baseball and softball fields in the County’s service district. There are a few areas in the City of Fayetteville that remain to be done.

Commissioner Council suggested discussion of this matter during the upcoming retreat.

Commissioner Henley suggested that the projects be phased in over a two to three year period. Commissioner Baggett noted the County would pay one-half of the total cost of the project, which would be approximately \$170,000. Costs to do this project at a later date may be higher.

Commissioner Warren noted the funds to pay for the County’s portion of this project will come from the Recreation Tax. The use of these funds is limited to recreation-related projects and costs.

ACTION: Award the bid for sports light installation at Cape Fear, Jack Britt and Pine Forest High Schools to Skan Electric in the amount of \$335,705 and approve a 5% contingency in the amount of \$16,785.

MOTION: Commissioner Council offered a motion to award the bid for sports light installation at Cape Fear, Jack Britt and Pine Forest High Schools to

SECOND: Skan Electric in the amount of \$335,705 and approve a 5% contingency
in the amount of \$16,785.
VOTE: Commissioner King
UNANIMOUS

1. Appointments to Boards and Committees

A. Area Mental Health Board (1 Vacancy)

Mental Health Representative from a Citizens Organization or Primary Consumer:

Nominees: John D. Ashford
Dr. Tryon Lancaster

VOTE ON

NOMINEES: John D. Ashford – Commissioners Warren, Baggett & King
Dr. Tryon Lancaster – Commissioners Henley, Blackwell, Edge and Council

Dr. Tryon Lancaster was appointed.

B. Equalization and Review Board (3 Vacancies)

Nominees: Appraiser Position: Crawford McKeithan, Jr. (Reappointment)
At-Large Position: Dr. Stacy Hair (Reappointment)
Industrialist Position: W. Carroll Beard, Jr.

MOTION: Commissioner Council offered a motion to appoint Crawford McKeithan, Jr. to the Appraiser Position, Dr. Stacy Hair to the At-Large Position and W. Carroll Beard, Jr., to the Industrialist Position.

SECOND: Commissioner King
VOTE: UNANIMOUS

4. Discussion of Reconsideration of Rezoning Case P00-74 from the January 16, 2001 meeting.

BACKGROUND

Commissioner Blackwell has asked that the Board of Commissioners reinstate the conditional use overlay regarding Case P00-74 and refer it back to the Joint Planning Board. The Board of Commissioners voted to deny the overlay district at the meeting on January 16, 2001.

Case P00-74 was a request for a conditional use overlay district and permit for a coin-operated unmanned car wash and oil exchange operation in a RR Rural Residential District on the southwest side of Fisher Road, between Lakeway and Kenmore Drives, the property of Gilbert Buie Heirs.

The Joint Planning Board voted unanimously to approve the overlay district and permit.

Commissioner Blackwell stated that he had reservations when he voted to deny this rezoning request. He visited the property and spoke with the owners and engineers. He asks that the Board vote to consider reinstatement of this request at the Planning Board. If the Board agrees to reinstate this rezoning request, they would hear the matter again during the March 19th meeting. He asked the owners to attend this meeting to answer any questions the board may have. He does not know the Buies personally, he spoke with them after the case was denied. He has no personal interest in this rezoning request. He noted he has voted to reconsider matters in the past and eventually voted against the matter in the end. The widening of Hope Mills Road will adversely affect the property where the Buies currently have their business located. They rent the current location of their business. He knows that some Commissioners have a problem with the appearance of the Buie's current business location. The Buies cannot be responsible for the adjacent business owners. There is spillover from other businesses onto their current location. He would like the Board to consider the desire of a couple who have a good business and an opportunity to purchase a piece of property at a good price so that they can re-locate. The Buies may not get another opportunity like this.

Commissioner Baggett stated he has reservations about re-initiating this case. The Commissioners reconsidered the Bi-Lo rezoning case because there was a legal reason to do so. Mr. Buie was asked at the time that the Commissioners considered this case if it could be delayed and Mr. Buie advised them that he had to have a decision at that meeting. This reconsideration may cause many requests for similar action when there is no legal reason to do so.

Commissioner Blackwell stated he made a mistake and is trying to correct it.

Commissioner Warren asked the County Attorney if the Board's rules of order would allow them to reconsider this case.

Mr. Barrett advised a motion to reconsider must be made at the same meeting that the action is taken to deny a request. However, the Board can legally reinstate a new action. The Board is not bound by the one-year wait that is required by the Planning Board when the Board of Commissioners denies a case.

Commissioner Edge asked if the owners could ask for another zoning classification if the case was reinstituted.

Mr. Barrett advised that the Board of Commissioners could do a reinstitution with a request to consider a Conditional Use Overlay.

Commissioner Edge stated he has a problem with approving a Conditional Use Overlay because it would allow a conditional use between the property they want and the adjoining housing development. He feels a request for Commercial zoning would be better. He noted the Planning Board had indicated they believed all of the land in the area would become commercial eventually. He feels the owner does not want the property zoned Commercial because the tax rate would be higher.

Commissioner Blackwell stated the petitioner would have legal counsel and feels they would get the appropriate advice from counsel.

MOTION: Commissioner Blackwell offered a motion to reinstitute Case Number P00-74 to the Planning Board.
SECOND: Commissioner King
VOTE: Favor: Commissioners Henley, Blackwell, Warren, Council, Baggett & King
Oppose: Commissioner Edge

5. Discussion of Cumberland County Hospital System Lease Payments to the County.

BACKGROUND

Commissioner King asked that the Board discuss Hospital payments to the County.

Commissioner King stated the original lease the County has with the Hospital was supposed to be a 3-4 year lease wherein the Hospital paid the County \$3 million per year as a lease payment. He thought it was time to discuss this matter again. As members of the Board of Commissioners and the Hospital Board of Trustees and in view of the County's financial standing, he feels the current situation poses a conflict for the Board. He also feels it is poor public policy for the County to rely on the hospital to balance its books. There is also a local employment impact in the community where the hospital is involved. The hospital is a County facility and jobs are currently being eliminated there. He knows that a \$3 million reduction in the amount of funds into the County will be a real problem. The Commissioners have a responsibility to the County and to the hospital.

Commissioner Council asked if Commissioner King would agree to delay discussion on this matter until the Board's retreat on February 23-24th.

Commissioner King stated he would agree to delay discussion of this matter until the retreat as long as this matter receives serious consideration.

MOTION: Commissioner Council offered a motion to delay discussion on this matter until the Commissioners' retreat scheduled for February 23-24, 2001.
SECOND: Commissioner Henley

DISCUSSION: Commissioner Henley stated there has been staff support that the new buildings built by the hospital be subject to County taxes. He certainly feels the Medical Arts Center should be subject to County taxes. He agrees with Commissioner King that there is a conflict in this area. The cost of healthcare is important in any community and this issue is important because of the current financial difficulties at the hospital.

VOTE: UNANIMOUS

6. Consideration of Scheduling a Public Hearing for the Proposed Water & Sewer District for Kelly Hills/Slocumb Road Area

BACKGROUND

The County Engineering Department is preparing a grant application for the Unsewered Communities Program administered by the North Carolina Rural Center in an attempt to secure funding for the Kelly Hills/Slocumb Road Sanitary Sewer Project. In order to qualify for this program, it will be necessary to create a qualified unit of local government in the Kelly Hills project area that will be the actual applicant. The Board of Commissioners has previously discussed the possibility of creating a water and sewer district in this area, which would meet the definition of a qualified unit of local government. Should the Board wish to pursue this matter, it would need to hold an initial public hearing regarding the proposed Kelly Hills/Slocumb Road Water & Sewer District before the March 30, 2001 submission deadline for the grant application. The staff recommends the public hearing be scheduled for 7:00 PM, March 19, 2001. The Board would not be required to take any formal action after the public hearing as the NC Rural Center does not require the qualified unit of local government actually be established prior to submission of the grant application.

ACTION: Set the date for the initial public hearing to consider creating the Kelly Hills/Slocumb Road Water & Sewer District for 7:00 PM, March 19, 2001.

MOTION: Commissioner Warren offered a motion to set the date for the initial public hearing to consider creating the Kelly Hills/Slocumb Road Water & Sewer District for 7:00 PM, March 19, 2001.

SECOND: Commissioner Edge

DISCUSSION: Commissioner Baggett stated he is concerned about the need for sewer services in the Kelly Hills area. He is also concerned that the Board is being asked to set up a form of local government for a very small portion of the County. There are less than 100 homes in this area. This is the least cost efficient way to do this project. He realizes that there is grant money available and they need to move forward in this matter. He has no problem with the public hearing.

VOTE: UNANIMOUS

Commissioner Warren advised that Commissioner Council has asked to be excused from the meeting.

MOTION: Commissioner Baggett offered a motion to excuse Commissioner Council from the meeting.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

7. Presentation on the Festival of Flight 2003

Appearing: Linda Lee Allen, Chairman and Gordon Clapp, Exec. Director

Ms. Allen stated that she was excited to serve as Chairman of Festival of Flight, Inc.. In 2003, the State will observe the 100th anniversary of man's first powered flight at Kitty Hawk. The primary period of celebration for Fayetteville will be May 16-26, 2003 with additional flight activities extending beyond and into the month of June. Dr. Franklin Clark has been involved in this and saw a chance for economic development in the area by participating in this celebration. The Chamber of Commerce has become involved and helped to start the committee. Gordon Clapp has been hired as the Executive Director of Festival of Flight, Inc. and will direct the plans for the celebration. Mr. Clapp has a wealth of ideas and experience. Cumberland County is the only area that will have ten days of activities to celebrate this anniversary. Cumberland County will be one of the anchor communities because our regional airport will allow a lot of private planes to fly into the area. She advised she has also briefed the Fayetteville City Council about the activities.

Mr. Clapp advised the plans for the celebration are still in the early stages. State representatives will be coming to Fayetteville on March 29th & 30th to meet the committee members. A reception will be held at the Airborne & Special Operations Museum and the Committee would like the Commissioners to join them. He noted some ideas the Committee has will focus on Downtown Fayetteville as well as contributions from other groups. Some events will be held at the airport. They have the full support of Fort Bragg and Pope Air Force Base. The focus of the activities will be education. They are also working with NASA to emphasize their educational programs. Events will be held at the Crown Coliseum and a major air show will take place at Pope Air Force Base. A parade will be held on Memorial Day. This will be an opportunity to give worldwide publicity to Fayetteville. He advised that Capital Broadcasting has contributed to the event and the Committee will be looking for private contributions.

Commissioner Henley stated he is serving on the Board of Directors and is pleased to have Ms. Allen and Mr. Clapp involved in the project. He noted a lot of funding for the event will be private donations to help take the burden off of local government. He advised that when the State Committee is here on March 29th they would be able to use the Airborne Museum without any fee being charged if the County co-sponsored the event.

MOTION: Commissioner Henley offered a motion that the County be a sponsor of and a participant in the Festival of Flight event scheduled for March 29, 2001 so that the event can be held at the Airborne & Special Operations Museum without charge.

SECOND: Commissioner King

VOTE: UNANIMOUS

8. Closed Session:

- A. Litigation**
- B. Economic Development Matters**
- C. Attorney-Client Matter**

Mr. Barrett noted the litigation matter was Cumberland County vs. Goodyear Tire & Rubber Company, NC Property Tax Commission.

MOTION: Commissioner Edge offered a motion to go into Closed Session to discuss a Litigation, Economic Development and Attorney-Client Matters.

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell offered a motion to come out of Closed Session.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell offered a motion to:

- Ratify Mr. Neil Yarborough's settlement of the Cumberland County vs. Goodyear Tire & Rubber Company [Kelly-Springfield] V. Cumberland County, NC Property Tax Commission appeal by reducing the Company's real property assessment from \$32,545,867 to \$32,222,867.
- Authorize the Tax Administrator to issue appropriate refunds for payment for tax years 1999 and 2000 based on the assessed valuation.
- Authorize management to file the report of final settlement with the minutes of the Board of Commissioners' regular meeting of February 19, 2001.

Meeting adjourned at 11:02 PM.

Deputy Clerk to the Board