
Minutes
Cumberland County Board of Commissioners
July 16, 2001, 7:00 p.m.
Regular/Rezoning Meeting
Cumberland County Courthouse, Room 118
Fayetteville, NC

PRESENT: Chairman J. Lee Warren, Jr.
Vice Chairman Breeden Blackwell
Commissioner Talmage Baggett
Commissioner Kenneth Edge
Commissioner John Henley
Commissioner Jeannette Council
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager/Finance Director
Cliff Spiller, Asst. County Manager
Grainger Barrett, County Attorney
Marsha Fogle, Clerk to the Board

INVOCATION - Commissioner Breeden Blackwell

PLEDGE OF ALLEGIANCE Jack Allen Thompson, III, Rising Kindergarten Student
— Alma Easom Elementary School

REMARKS BY CUMBERLAND COUNTY BOARD OF COMMISSION CHAIRMAN J. LEE WARREN REGARDING SCHOOL BUDGET

Every member of the Board of County Commissioners has put forth tremendous effort in trying to resolve the budget impasse with the Board of Education.

Late last week, we offered a compromise that equated to more than half of the \$5.7 million budget difference between the Boards and would have restored funding for middle school athletics and innovative academic programs.

The proposal would have helped the Board of Education meet many of its funding requests and would have resulted in a current expense budget that required less than a 1% cut in the total school budget.

We offered this compromise in good faith in an effort to avoid a lawsuit that will prove very costly to the citizens of Cumberland County. In fact, the Board of Education rejected this proposal and has again today refused to make any reductions to their 5.7 million dollar request.

In 1992, the Board of Education filed a lawsuit against the Board of County Commissioners regarding school current expense funding. At that time the Board of Education received \$28.4 million dollars for current expense funding from the county. The budget of \$51.2 million dollars for FY02 represents an 81% increase in funding for our schools since 1992.

To fund the Board of Education's request for an additional 5.7 million dollars would require us to raise the property tax rate by 5 cents which could reflect negatively upon our community and the recruitment of industry as evidenced by the recently announced closing of Abbott Laboratories in Scotland County. Due to the financial crisis of the state, it appears that even a sales tax at this point could be eroded to the extent that the taxpayers of Cumberland County would receive virtually no benefit. As currently being considered, any new sales tax would exempt food purchases and eliminate approximately 5 million dollars in state reimbursements to Cumberland County. Currently the estimated net proceeds of a new sales tax could be less than 1 million dollars in FY02.

In order to be fiscally sound, our county can no longer afford to continue balancing our budget with our fund balance. We must improve our county's financial position. The road to improvement starts here and it will take all of us working together to get to where we need to be. Only this will insure the future financial integrity of Cumberland County.

Mr. Warren said he was a product of the Cumberland County School System and a strong advocate for education. He noted the importance of being fiscally sound and committed to continue to be a watchdog for the taxpayer and a voice for all the citizens of the county.

Amendments to the Agenda:

ADD: Budget Revision to Consent Agenda: 2I(5) – Health Department – B02-027-027I
A revision to utilize county fund balance transferred from several other health department organizations in order to create two new positions – processing assistant III/foreign language interpreters at a cost that is less than what is currently being paid to temporary employees agencies.

ADD: Closed Session – Attorney Client

CORRECTION: Item 2D – Amount of bid award - \$20,803

MOTION: Commissioner Blackwell moved to approve the amendments to the agenda.
SECOND: Commissioner Edge
VOTE: UNANIMOUS

1. Public Hearings

Uncontested Rezoning Cases

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminating, and in the public interest and that the property within such proposed district is suitable for all uses permitted by the new classification, the following motion was offered:

MOTION: Commissioner Baggett moved to follow the recommendation of the Planning Board in the Uncontested Cases.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

A. Case P01-42. The rezoning of 4.33 acres from A1 to R40A, or a more restrictive zoning district, at 4655 NC Hwy 87 South, owned by Velma Carver.

ACTION: The Planning Board recommends approval of R40A.

B. Case P01-44. The rezoning of 2.0 acres from R10 to RR, or a more restrictive zoning district, at 3612 Camden Road Extension, owned by Roy and Frankie Sweatt.

ACTION: The Planning Board recommends approval of RR.

C. Case P01-45. The rezoning of .61 acres from R10 to R6A, or a more restrictive zoning district, at 2275 and 2259 Sharon Street, owned by Robert L. and Eunice B. Morris.

ACTION: The Planning Board recommends approval of R6A.

D. Case P01-46. The rezoning of .74 acres from R10 to RR, or a more restrictive zoning district, at 7162 Rockfish Road, owned by Andrew F. and Randayle C. McMillan.

ACTION: The Planning Board recommends denial of RR and approval of R20.

E. Case P01-47. The rezoning of 17.41 acres from RR to R10, or a more restrictive zoning district, at 5600 Grimes Road, owned by Leslie Bruton, Jr.

ACTION: The Planning Board recommends approval of R10.

F. Case P01-49. The rezoning of .43 acres from R10 to C1, or a more restrictive zoning district, at 2206 Hope Mills Road, owned by Khamkong Bounnharaj.

ACTION: The Planning Board recommends approval of C1.

Contested Rezoning Cases

G. Case P01-43. The rezoning of .48 acres from R15 to RR, or a more restrictive zoning district, at 3705 Gateway Drive, owned by Joann Weak's.

ACTION: The Planning Board recommends denial.

MOTION: Commissioner Baggett moved to deny the rezoning as recommended by the Planning Board.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

H. Case P01-48. The rezoning of 2.01 acres from A1 to R40A, or a more restrictive zoning district, at 1430 Port Richey Lane, owned by Eric B. and Rachel A. Hudson.

ACTION: The Planning Board recommends approval of R40A.

Speakers:

Becky Garcia – Ms. Garcia noted this case has been back before the Board about four times. She said the dirt road is maintained by those who live on it. She said the condition of the road does not lend itself to high density housing. She said there are enough dwellings based on the road conditions. She also noted that the petitioner does not help maintain the road. She urged the Board to deny the rezoning request.

Marie Cox – Ms. Cox also noted the road conditions. She said the petitioner moved the mobile home onto the lot without proper permits. She urged the Board to deny the rezoning request.

MOTION: Commissioner Blackwell moved to deny the rezoning request.

SECOND: Chairman Warren

DISCUSSION: Commissioner Baggett noted concern that the petitioner did not appear to make his case.

VOTE: UNANIMOUS

Conditional Use Overlay Cases

I. P01-39. A Conditional Use Overlay District and Permit to allow 11 additional lots in an approved Conditional Use Overlay District for a residential subdivision without adding a second point of access, to the west of Rim Road off Bugle Call Drive, containing 3.9 acres, owned by Norco Construction Company of Wilmington, Inc., William K. and Grace W. Gillis and John D. and Barbara M. Gillis.

ACTION: The Planning Board recommends approval of the Overlay District and Permit.

The packet material will be made a part of the record of this hearing.

MOTION: Commissioner Baggett moved that the Board of Commissioners finds that this conditional use district overlay application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest and that it be approved.

SECOND: Chairman Warren

VOTE: UNANIMOUS

MOTION: Commissioner Baggett moved that the Board of Commissioners finds that this conditional use district overlay permit application, if completed as proposed, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be in harmony with the area in which it is to be located and will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

SECOND: Chairman Lee Warren

VOTE: UNANIMOUS

Amendments to the Cumberland County Code of Ordinances

J. Case P01-40. Revisions and Amendments to the Cumberland County Code of Ordinances by creating Section 7.34 "Viewshed Frontage," requiring a 100-Foot setback for lots fronting Burnett and Ross West Roads within the area designated by the National Register of Historic Places as the Averasboro Battlefield.

The Planning Board recommends approval of the amendment for a 70-foot setback from the right of way on Highway 82 only (Burnett Road).

Barry Warren, Planning Director, said the 70 foot setback was approved with the blessing of the Averasboro Battlefield Commission. Mr. Warren noted that construction plans for the road were drawn up in 1947 indicating a 100 foot right of way. When the road was built in 1950, NCDOT did not record deeds; therefore there is confusion about the right of way. Mr. Warren noted that most of the setbacks were 60 foot; however there may be some 100 foot setbacks. He said it appears the footage depends upon where you live. He said he just wanted to explain the confusion on this issue.

Speaker: Mr. Mac Williams – Member, Averasboro Battlefield Commission. Mr. Williams recommended the Board approve the 70 foot setback.

Upon finding the amendment to the Ordinance to be reasonable, neither arbitrary or unduly discriminating, and in the public interest, the following motion was made:

MOTION: Commissioner Blackwell moved to approve the amendment for a 70 foot setback from the right of way on Highway 82 only (Burnett Road).

SECOND: Commissioner Edge

VOTE: UNANIMOUS

K. Case P01-55. Revisions and Amendments to the Cumberland County Code of Ordinances, Section 7.3, "District Dimensional Provisions," to require a 50-Foot front yard setback in the A1A District where 30 Feet is currently required.

The Planning Board recommends approval of the amendment to require a 50-foot front yard setback in the A1A District where 30 feet is currently required.

Upon finding the amendment to be reasonable, neither arbitrary or unduly discriminating, and in the public interest, the following motion was made:

MOTION: Commissioner Baggett moved to approve.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

2. CONSENT AGENDA

MOTION: Commissioner Blackwell moved to follow staff recommendations on the items on the Consent Agenda.

SECOND: Commissioner Council

VOTE: UNANIMOUS

A. Approval of minutes for the July 2, 2001 Regular Meeting

ACTION: Approve

B. Approval of Amendment to the 2001-2003 Cumberland County Work First Plan.

BACKGROUND: On June 8, 2001, the Work First Planning Committee approved an amendment to the 2001-03 Cumberland County Work First Plan. This amendment provides access to services needed by low-income residents of Cumberland County who are victims of domestic violence and affords our county access to federal funding. Access to these funds will provide the needed support for the on-going operations of the Family Violence CARE Center. The amendment states that "TANF" funds will be utilized to provide domestic violence services to families with income at/or below 200% of poverty. The Social Services Board approved the amendment on June 27, 2001, which will become effective October 1, 2001.

ACTION: Approve

C. Approval of Exception to the Conflict of Interest Rule in the Community Development Housing Rehabilitation Program.

BACKGROUND: Community Development received an intake from an applicant who is related to one of its Rehabilitation Specialists. The applicant is a 72-year old individual in a one-person household with an annual income of \$6,804. She owns and occupies the property located at 3809 Camden Road, Fayetteville, NC. She is eligible for assistance under this program.

The affected staff member will not be assigned to this case, nor will he/she be consulted in any capacity regarding the project.

This issue is being presented to the Board of Commissioners as a matter of disclosure for public record.

ACTION: No action needed.

D. Approval of Formal Bid Awards Less Than \$100,000 Approved by Management.

BACKGROUND: The County Manager, pursuant to the county purchasing policy, has awarded the following bid:

Cumberland County Health Center cabling project: Sprint - \$20,803

Other bids received were:	Advanced Comm	\$	29,700.00
	ASD	\$	49,431.59
	DataComm Comm	\$	36,954.76
	Gill Security	\$	29,835.75
	Modern Communications	\$	37,627.00
	MS Telecommunications	\$	69,236.00
	Netcom	\$	37,581.00
	Neuse Communications	\$	33,800.00
	Omega	\$	23,995.10
	Optech Datacom	\$	29,555.00
	Premiere Comm	\$	55,453.00

ACTION: No action needed.

E. Approval of the Tax Collector's Preliminary Report and Proposed Annual Settlement for FY 01.

BACKGROUND: Pursuant to the General Statutes the Tax Collector after the 1st day of July of each year must render a preliminary report to the Board of Commissioners concerning persons whose tax liabilities remain unpaid and to propose an annual settlement of taxes charged to him for collection for the past year. The preliminary report consists of a list of persons owning real property whose taxes for tax year 2000-01 remain unpaid, a list of persons not owning real property whose taxes for the year 2000-01 remain unpaid (the proposed insolvent list) and a statement under oath by the Tax Collector that he has made diligent efforts to collect such taxes. The proposed settlement consists of the amounts of taxes with which the Tax Collector has been charged for the year and the amounts of credits against such charges; the real and personal property tax balance is charged to the forthcoming tax year.

ACTION: Adopt Resolution

**RESOLUTION ACCEPTING THE PRELIMINARY REPORT OF THE TAX COLLECTOR
CREDITING THE INSOLVENT LIST AND APPROVING PROPOSED ANNUAL
SETTLEMENT**

WHEREAS, NC General Statutes 105-373, requires the Tax Collector of Cumberland County after the 1st day of July of each year to render a preliminary report to the Board of Commissioners concerning persons whose tax liabilities remain unpaid and to propose an annual settlement of taxes charged to the Tax Collector for collection for the past ten years; and

WHEREAS, THE Tax Collector has submitted such preliminary report and proposed settlement.

NOW, THEREFORE, the Board of Commissioners of Cumberland County hereby
RESOLVES:

1. That the preliminary report of the Tax Collector of Cumberland County, consisting of (I) a list of persons owning real property whose taxes for the year 2000-01 remain unpaid and the principal amount owed by each person; (II) a list of the persons not owning or who have not listed real property whose taxes for the tax year 2000-01 remain unpaid and the principal amount owed by each person (the proposed insolvent list) and (III) a statement under oath by the Tax Collector that he has made diligent efforts to collect such taxes, be and it hereby is accepted;
2. That the Board hereby finds that the persons in the list of those who do not own or have not listed real property are insolvent as that term is used in GS 105-373, directs that the list of such person be entered into the minutes of the meeting of the Board as the insolvent list, and further directs that the amounts in such list be, and hereby are, credited to the Tax Collector in his annual settlement;
3. That the proposed settlement of the Tax Collector, appended hereto, for taxes in his hands for collection for the tax year 2000-01, be and it hereby is, approved and that he be, and thereby is, charged with the amounts set forth in the settlement under the heading "Charges" and credited with the amounts set forth in the settlement under the heading "Credits". (Attachment A)

F. Approval of the FY02 Order to the Tax Collector.

BACKGROUND: Pursuant to the General Statutes, the Board of Commissioners shall adopt and enter into its minutes an order directing the Tax Collector to collect the taxes charged in the tax records and receipts.

ACTION: Approve the levy and charge the Collector with the responsibility to collect the taxes.

G. Approval of the Disposal of Surplus Property Report – January 1 through June 30, 2001, Pursuant to N.C.G.S. 160-A-226 (a).

BACKGROUND: Pursuant to a resolution adopted by the Board of Commissioners, June 15, 1998, the Assistant County Manager was authorized to dispose of certain “Personal property, worth less than \$5000 per item or group of similar items, which have become obsolete, unusable, economically unrepairable, or otherwise surplus to the needs of the county. The Manager must report this to the Board, and the list must be included in the minutes.

ACTION: Adopt report and record in Minutes. (Attachment B)

H. Approval of Declaration of Surplus Cape Fear Valley Health System Equipment and Furnishings and Authorization for Disposition.

BACKGROUND: The Hospital Board of Trustees declared the attached list of property surplus to their needs.

ACTION: Approve the list as surplus, and dispose of through sale, scrapped or traded as deemed appropriate by Cape Fear Valley Health System.

<u>Description</u>	<u>Item Condition</u>	<u>Quantity</u>
Card Cage	2	1
Cart, CPU	2	1
CPU	2	7
CPU, 4/100	2	7
CPU, 575	2	1
CPU, Controller	2	2
CPU, Deskpro 2000	2	4
CPU Elite Laptop	2	2
CPU, Monitors	2	10
CPU, Prolinea	2	67
CPU, Prolinea 5100E	2	20
CPU, Prosignia	2	9
CPU Terminal	2	1
CPU Hardware Add To	2	1
CPU Prolinea 5100E	2	2
Defibrillator	2	1
Monitor Life Pak	2	1
Monitor, 20 in	2	3
Monitor, CPU	2	27
Printer	2	37

Printer Laserjet	2	4
Router, Computer	2	2
Switch, Computer	2	10
UPS Power Supply	2	1
Analyzer IMX W/starter kit	3	1
Capnograph & PLS Oxmtr	3	3
Lifht Phototherapy	3	1
Lithotriptor Ultrasonic w/ACC	3	1
Processor – Film	3	1
Ventilator	3	16
Ventilator – portable	3	7
Vita Check Measure System	3	1
Copier – Color	4	1
EKG machine – PWII	4	1
Various plumbing, electrical HVAC, counters, kitchen equipment, doors, shelving, carts & cabinets removed during hospital renovation.		

Note: Item condition key:

1	Scrap
2	Not economically repairable
3	Repairable/obsolete
4	Obsolete
5	Surplus to hospital needs

I. Budget Revisions:

ACTION: Approve

(1) Healthy Families – Health

Decrease in revenue and expenditures in the amount of \$668,908 to reduce the budget because of an unexpected reduction in funding from the Cumberland County Partnership for Children. (B02-024) **Funding Source – State and Fees.**

(2) Federal Forfeiture - Justice

An increase in revenue and expenditures in the amount of \$70,000 to; replace a bomb detection dog, purchase search & rescue equipment, and other miscellaneous law enforcement equipment. (B02-029) **Funding Source – Fund Balance (Federal).**

(3) Community Development

a. Home Admin./Home Programs – Increase in revenue and expenditures in

the amount of \$2,225 to budget for an increase in HUD allocation (\$2,000) and the county match (\$225). (B02-022 and B02-022A) **Funding Source – Federal and County.**

b. Miscellaneous Grants – Increase in revenue and expenditures in the amount of \$21,197 to budget new grant funds from the Cumberland Community Foundation for Continuum Care Planning Council. (B02-028) **Funding Source – Federal.**

(4) Social Services – Other

Increase in revenue and expenditures in the amount of \$24,791 to utilize State Adoption Incentive funds remaining from FY 00-01. (B02-026) **Funding Source – Fund Balance (State)**

(5) Health Department – Increase in revenue/expenditures to create 2 new positions – Processing Assistant III/Foreign Language Interpreters. (B02-027-027I) **Funding Source – County Fund Balance**

REGULAR AGENDA

3. Nominations to Boards and Committees

A. Board of Adjustment (1 Vacancy)

BACKGROUND: Malcolm King will complete his first term as an alternate member on the Board of Adjustment. He is eligible for reappointment.

Nominee: Malcolm King

B. Emergency Planning Committee (1 Vacancy)

BACKGROUND: Cathy Ory, serving in the hospital position, has resigned from this Committee.

ACTION: Nominate Steve Schultz to replace Ms. Ory.

Nominee: Steve Schultz

C. Equalization and Review Board (1 Vacancy)

BACKGROUND: Lesley Manns, Sr., resigned his position (home builder) on this Board. His term will expire March 31, 2003. The Homebuilders Association recommends Ron Smith , RWS General Builders for this vacancy.

Nominee: Ron Smith

D. Joint Storm Water Advisory Board (1 Vacancy)

BACKGROUND: Billy Maxwell, appointed to a second term on the Joint Storm Water Advisory Board, has declined his reappointment.

ACTION: Nominate to fill the vacancy.

Nominees: Carlon G. Mercer

E. Nursing Home Advisory Board (2 Vacancies)

BACKGROUND: The following positions need to be filled:

Frances Brunson – was reappointed on June 4, 2001 – has not responded to notification;
Shirley McDuffie – completing initial term – eligible for reappointment

Nominees: Shirley McDuffie (reappointment)
Linda Henderson

Workforce Development Board (1 Vacancy)

BACKGROUND: Dr. Richard Ellis has completed his first term; he is eligible for reappointment.

Nominee: Dr. Richard Ellis

4. Appointments to Boards and Committees

A. Home and Community Care Block Grant Committee (1 Vacancy)

Older Consumer Representative - Nominee: Anthony L. Johnson

MOTION: Commissioner Blackwell moved to appoint Mr. Johnson by acclamation.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

5. Designation of Voting Delegate for the NCACC Conference, August 9-12, 2001.

BACKGROUND: A voting delegate should be appointed for the NCACC Conference, August 9-12, 2001.

MOTION: Commissioner Blackwell moved to appoint Commissioner King as the delegate for the NCACC Conference.

SECOND: Commissioner Henley
VOTE: UNANIMOUS

6. Consideration of Canceling the August 6, 2001 Commissioner's Meeting.

BACKGROUND: The NCACC Conference will begin on August 9, 2001. Because of all of the last minute details, it would be advantageous to cancel our meeting on August 6.

MOTION: Commissioner Baggett moved to cancel the August 6, 2001 regular meeting of the Board of Commissioners.

SECOND: Commissioner Edge
VOTE: UNANIMOUS

7. Closed Session – Attorney Client Matter.

MOTION: Commissioner Edge moved to go into Closed Session for Attorney Client matters.

SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

MOTION: Commissioner Baggett moved to go back into Open Session.
SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

MOTION: Commissioner Blackwell stated the Board of Commissioners cannot accept the latest offer of the Board of Education because it would cause the County to spend money it does not have and he moved that the offer of the Board of Education be rejected in order to protect the financial integrity of the County.

SECOND: Commissioner Edge

DISCUSSION: Commissioner Henley said he was very disappointed that mediation has not resulted in positive results. He stated there is approximately 100 years education experience on the Board of Commissioners. He also stated that the Board of Commissioners made education its first priority; however it does not have the money to fund the school's request. Commissioner Henley also noted that the Board of Education never moved from their \$5.7 request; he said they couched it in a different way, but the bottom line is still the same and they want the county to pay them back over a 2-3 year period. Commissioner Henley said if the School Board chooses and the Mediator calls an impasse, it will force a property tax increase on the citizens of Cumberland County. That would almost certainly have a negative impact on the county's growth and economic development. Commissioner Henley said he would ask the School Board to do what all county departments and FTCC had to do and make cuts in their budgets. Commissioner Henley noted that 68% of the property tax revenue goes to the schools which puts Cumberland County in the top 20% of the counties in the state. Commissioner Council said she was deeply saddened, disappointed and disillusioned that mediation did not bring forth compromise. She noted she voted to make cuts in county department and the

hospital which resulted in the layoff of employees. She said county departments are bleeding and citizens are crying. She noted that the children are our most important priority; however in addition to education they need health services, mental health services and DSS services. Commissioner Council noted the State of North Carolina is at a crucial juncture and the county does not know what the General Assembly will do. Commissioner Council said she is extremely said that taxes could have to be raised. She also said that she thought mediation meant that both parties could meet on some "common ground". However the Board of Education has refused to budge on their \$5.7 million request. She said the refusal of the School Board to budge was a personal disappointment to her, noting she has been a part of the school system for a lot of years. She said we must share in the hard times. She said she would reluctantly raise her hand to support this motion with great disappointment. Commissioner Baggett said the action of the School Board not to budge on their \$5.7 million request will guarantee the citizens a 5 cent increase in their property taxes. He said this increase could put the county back a notch and that he feels Commissioner Council's frustration. Commissioner Baggett said the County negotiated in good faith and the Board of Education was not willing to reduce their request by one dollar. Chairman Warren said he wanted to make it clear that any previous offer made to the Board of Education is off the table.

VOTE: UNANIMOUS

MEETING ADJOURNED: 9:20PM

Clerk to the Board