

**CUMBERLAND COUNTY BOARD OF COMMISSIONERS
NOVEMBER 19, 2001, 7:00PM
REGULAR/REZONING MEETING**

PRESENT: Chairman Lee Warren
Vice Chairman Breeden Blackwell
Commissioner Talmage Baggett
Commissioner Jeannette Council
Commissioner John Henley
Commissioner Billy King
Commissioner Kenneth Edge
James Martin, County Manager
Cliff Spiller, Asst. County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Tom Lloyd, Planning Staff
Marsha Fogle, Clerk to the Board

INVOCATION: Commissioner Talmage Baggett
PLEDGE: Lindsay Poe

RECOGNITION: Retired County Employee – Philip McCall, Mental Health Dept.

1. PUBLIC HEARINGS

Contested Rezoning Cases

- A. Case P01-80. The rezoning of 2.0 acres from PND to C(P) or a more restrictive zoning district, at 2450 Gillis Hill Road, owned by Mable S. Blue and George and Lana Blue.**

The Planning Board recommends approval of C(P).

Speakers:

Jana Berg: Representing the petitioners. Ms. Berg noted the petitioners and Ms. Virginia Frye have worked out a compromise in the form of a restrictive covenant. The covenants address Ms. Frye's concern about a buffer and screening between her property and subject property up for rezoning. The covenant has been filed in the office of the Register of Deeds.

Virginia Frye: Will accept the restrictive covenants as filed in the Register of Deeds Office.

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, the following motion was offered:

**MOTION: Commissioner Baggett moved to approve C(P).
SECOND: Commissioner King
VOTE: UNANIMOUS**

- B. Case P01-83. The rezoning of 16.10 acres from A1 to R30 or to a more restrictive zoning district, at 4091 Murphy Road, owned by William E. Draughon, Jr.**

The Planning Board recommends denial of the rezoning to R30.

Speaker: Mr. William Draughon, petitioner, reviewed the history of this case. He said he actually asked for rezoning to R40, not R30.

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, the following motion was offered:

MOTION: Commissioner Baggett moved to approve R40.
SECOND: Commissioner Edge
VOTE: UNANIMOUS

- C. Case P01-84. The rezoning of .49 acres from RR to C1 or to a more restrictive zoning district at 4415 Clinton Road, owned by William and Martha Downing.**

The Planning Board recommends approval of C1.

Speakers:

Jana Berg – representing petitioners. Ms. Berg said this property was zoned commercial years ago. She said when Mr. Downing purchased the property he thought it was zoned commercial. She noted that with the availability of water and sewer, C1 rezoning would be appropriate for this piece of property. She also noted there is C(P) zoning right across the street. She asked the Board to rezone the property to C1.

Bradley K. Spain – Opposed the rezoning to C1. Mr. Bradley lives at 4439 Clinton Road. Mr. Spain said the rezoning to C1 would change the rural setting of the area. Mr. Spain noted there are ample convenience venues within a mile of the site. He also noted a new shopping development to open in the near future at the Maxwell Road – Highway 24 intersection. Mr. Spain pointed out that the C(P) zoning across the road from this property has not been developed. A shopping center at this location would make traffic unbearable. Mr. Spain also pointed out that at the location there are probably underground gas storage tanks that will need to be removed. He said commercial at this location is not viable. Mr. Spain said if the Board does choose to rezone he would like for them to look at a conditional use overlay district for this property. Petition presented.

Commissioner Baggett noted the old country store currently on this property has not been used for the last 25-30 years. He said he thought it a proper location for C1.

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, the following motion was offered:

MOTION: Commissioner Baggett moved to rezone to C1.
SECOND: Commissioner King
VOTE: **FAVOR:** Commissioners Baggett, Blackwell, Warren, Council, King and Edge
OPPOSED: Commissioner Henley

- D. Case P01-85. The rezoning of 4.0 acres from C(P) to R6A or to a more restrictive zoning district at 3996 Gillespie Street, owned by Sudie Taylor and Kathy Manning.**

The Planning Board recommends denial of R6A.

Speaker: Kathy Manning (speaking for her mother). Ms. Manning wants the property rezoned so she can put some mobile homes on the property. The ingress/egress to the property is via a dirt road, which she says she will grade so the road will be useable. She said she checked to make sure the property would perk for septic tanks. Ms. Manning said this tract was originally R6A and was picked up by mistake and zoned C(P) a couple of years ago.

Commissioner Baggett said if the property is rezoned it has the potential to accommodate 23 units. He noted his concern about the lack of access to water and sewer.

Mr. Tom Lloyd, Planning Staff, noted the property has been zoned C(P) for the last ten years.

MOTION: Chairman Warren moved to deny the rezoning request.
SECOND: Commissioner Council
VOTE: **FAVOR:** Commissioners Henley, Warren, Council, Edge, King, Baggett
OPPOSED: Commissioner Blackwell

Conditional Use Overlay

- E. Case P01-68. A conditional use overlay district and permit to allow Trades Contractor, excluding outside storage on .55 acres in an R6 District at 109 New Street, owned by Stan and Lisa Simmons.**

The Planning Board recommends approval of the overlay district and permit with the following conditions:

- a solid or vegetative buffer will be placed along the northern & western boundaries;
- all lighting is to be directed inward away from residential properties;
- if the existing structure is more than 50% destroyed, it is to be reconstructed within the legal setbacks;
- parking and turn around areas are to be designed in order to allow only forward ingress and egress onto the streets.

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: Commissioner King
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 the 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 and that it be approved with conditions as noted above.

SECOND: Commissioner King
VOTE: UNANIMOUS

- F. Case P01-87. A conditional use overlay district and permit to allow a recreational facility on 7.0 acres in an M(P) District at 2100 Clinton Road, owned by Sundust, LLC.**

The Planning Board recommends approval of the overlay district and permit with the following conditions:

- all lighting is to be directed inward away from surrounding properties;
- future development will require buffering.

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: Commissioner King
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 the 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 and that it be approved with conditions as noted above.

SECOND: Commissioner King
VOTE: UNANIMOUS

- G. Case P01-86. Amendments/revisions to the Cumberland County Zoning Ordinance, Section 10.2, Definitions, to add "Massage and Body Work**

Therapy,” and applicable sections to allow as a permitted use in the C1, C(P) & C(3) Districts.

The Planning Board recommends approval of the amendments.

MOTION: Commissioner Blackwell moved to approve.
SECOND: Commissioner King
VOTE: UNANIMOUS

2. CONSENT AGENDA

MOTION: Commissioner King moved to follow staff recommendations on the items on the Consent Agenda.
SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

A. Approval of minutes: October 29, 2001 & November 5, 2001

ACTION: Approve

B. Approval of award of bids for Cumberland County Detention Center

BACKGROUND: Bids were received on October 22, 2001 for furniture for the new Detention Center. The bid tabulation is Attachment A to these minutes. The low bid has been recommended on all items with the exception of MOD-2 (inmate stacking chairs) Baker Associates submitted a bid on stacking chairs which exceed the low bid by a total of \$6.56. The recommendation to award the bid to Baker is due to the quality and durability of this chair, and the 5 year warranty. Norix offered only a 2 year warranty with their stacking chairs. The total bid award for these items is \$142,753.02.

ACTION: Approve the bid awards (low bids) as shown on Attachments A & B.

C. Approval of declaration of surplus Cape Fear Valley Health System equipment and furnishings and authorization for disposal.

BACKGROUND: The Hospital Board of Trustees declared certain equipment surplus to their needs and is requesting it be disposed of by the upset bid or negotiated offer process, scrapped and traded in as deemed appropriate by Hospital management.

ACTION: Approve the disposition of the equipment listed in Attachment C to these minutes as recommended by the Hospital Board of Trustees.

D. Budget Revisions

(1) Health

- a. Communicable Disease – Revision in the amount of \$1,546 to budget for the increase in pay from training status to fully qualified for the Community Disease Control Specialist II (B02-196) Funding Source – Reallocation of Budgeted Expenditures**
- b. Health Families/CSC – Net increase in revenue/expenditures in the amount of \$9,218 to transfer employees and related expenditures from Healthy Families to Child Service Coordination Program (B02-200-200B) Funding Source – State & Health Department Escrow**

(2) Parks and Recreation - Increase in revenue/expenditures in the amount of \$7,500 to recognize a contribution from the Fayetteville Observer Times for the construction of a naval stores factory exhibit at Lake Rim Park Visitor Center (B02-199) Source of Funding – Contribution

(3) Library

- a. Library – Increase in revenue/expenditures in the amount of \$3,000 to budget a grant received from the Gloria D. Novello Advised Fund (B02-198) Funding Source – Grant**

- b. **Foreign Language Center – Increase in revenue/expenditures in the amount of \$12,366 to recognize additional Foreign Language Center subscriptions (B02-205) Funding Source – Subscriptions**

(4) Mental Health

- a. **Personnel – Revision to appropriate fund balance in the amount of \$17,000 to budget for replacement Personnel Officer to work with current Personnel Officer B02-195) Funding Source – Mental Health Fund Balance**
- b. **MH-CBA In Home – Revision in the amount of \$1,560 to reconcile approved Juvenile Justice and Delinquency Prevention Grant to the County budget (B02-208) Funding Source – State & Fees**

(5) Juvenile Crime Prevention – Revision in the amount of \$57,318 to refund back to the state the excess of revenue received over expenditures for FY2001 (B02-211) Funding Source – JCP Fund Balance

REGULAR AGENDA

3. Nominations to Boards/Committees

A. Board of Health (2 vacancies)

BACKGROUND: The following positions will become vacant on January 1, 2002:

Optometrist Position – Dr. William Philbrick – Eligible for reappointment

Engineer Position – Walter Moorman – Not eligible for reappointment

Nominees: Dr. William Philbrick – Optometrist position (reappointment)
Jeff Reitzel – Engineer position

B. Civic Center Commission (5 vacancies)

BACKGROUND: The following positions will become vacant on January 1, 2002:

Keith Allison – not eligible for reappointment
Laurie Bondshu – not eligible for reappointment
Landis Chavis – not eligible for reappointment
Leonard Hedgepeth – not eligible for reappointment
Steve Horne, Jr. – not eligible for reappointment

Nominees: Larry Lancaster
Kenneth Lancaster
Jack Justice
Bob Ray
Bobby Hurley
Sylvia Caldwell
Dan Roberts
Manish Mehta
H.B. Smith
Gary Strickland
David Varnadoe
C. Bruce Armstrong

C. FACVB Board of Directors & Occupancy Tax Advisory Board (2 vacancies)

BACKGROUND: The following positions will become vacant on January 1, 2002:

Hotel/Motel under 100 rooms – Katherine Keefe Jansen – eligible for reappointment
Hotel/Motel over 100 rooms – Cameron W. Stout – eligible for reappointment

Nominees: Katherine Keefe Jansen – Hotel/motel under 100 rooms
Cameron W.Stout – Hotel/motel over 100 rooms

D. Minimum Housing Appeals Board (2 vacancies – Alternate Members)

BACKGROUND: The following vacancies will become vacant December 31, 2001:

Sarah Bracey (completing an unexpired term) – Eligible for reappointment

Rose January (completing an unexpired term) – Eligible for reappointment

Nominees: Sarah Bracey – reappointment

Rose January - reappointment

4. Appointments to Boards/Committees

MOTION: Commissioner Blackwell moved to appoint the nominees in 4B, 4D & 4E, respectively, to the Boards/Committees.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Area Mental Health Board (3 vacancies)

Nominees: Weyer Dawson, Gene Watts and Jesse Brayboy (reappointment)

MOTION: Commissioner Baggett moved to appoint Weyer Dawson, Gene Watts and Jesse Brayboy to the area Mental Health Board.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

B. Library Board of Trustees (2 vacancies)

Nominees: Sylvia C. Ray and Dr. Liliana E. Wendorff

C. Transportation Advisory Board (4 vacancies)

Nominees/Voting: Windows of Opportunities: Alan Derosier - Unanimous

Mental Health Director/designee: Denise Lucas - Unanimous

At Large (need 2) Sarah Hemingway – Commissioners Henley, Blackwell, Warren, Baggett, King, and Edge

Gerald Patterson Commissioners Edge, Blackwell & Council

John R. (Bob) White: Commissioners Henley, Warren, Council Baggett and King

D. Workforce Development Board (1 vacancy)

Nominee: Private Sector – Ben Wilson (reappointment)

E. Wrecker Review Board (1 vacancy)

Nominee: County appointee – George Moyd

5. Consideration of Policy Committee report/recommendation:

A. Revision to Animal Control Ordinance to provide joint regulations with the City of Fayetteville

BACKGROUND: The proposed revisions include the following:

- increase the size of the Animal Control Board from 5 to 7 (City Council will nominate two persons for each of the 2 additional seats; the Board of Commissioners will choose from the nominees)
- the City will not levy an additional and separate license fee; (all license fees, civil penalties, shelter fees, etc. attributable to animals within the City would be collected and retained by the county);

- the revisions suggest directing the Animal Control Department to use its best efforts to implement a test 18 month program for microchipping (the feasibility of such a program will depend on available funding)
- tethering will not be banned; however animal control officers may prohibit it in specific cases where tethering adversely affects an animal;
- a completely enclosed yard will not be required
- exemption for exotic animals will be a temporary one for circuses;
- any animal that has killed a person may not be kept within the County
- includes basic standards for pet shops

ACTION: Determine whether to adopt the new ordinance. (Adoption will be contingent on approval by the City Council)

MOTION: Commissioner Henley moved to approve.

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Henley moved that the Animal Control Department report back to the Board in three months with information concerning setting up the microchipping program, cost, etc. and with a plan, getting input from other organizations, on how to educate the public on the importance of microchipping.

SECOND: Commissioner King

VOTE: UNANIMOUS

B. Cumberland County Rural Water Study – Preliminary Water and Sewer District Boundaries

BACKGROUND: A preliminary map that delineates the rural water and sewer district boundaries for Cumberland County was presented to the County Policy Committee. The map was developed by the Rural Water Study Project Team consisting of representatives from CDM/The Wooten Company, County Engineering and Planning Departments and PWC. The following criteria were used in evaluating potential water and sewer boundaries and developing the map:

- income and population data from the 1990 Census
- voter precinct boundaries
- township boundaries
- municipal boundaries
- PWC service area boundaries (existing and planned)
- planned service areas boundaries of Linden, Falcon, Godwin, Wade & Stedman
- Eastover Sanitary District boundary
- proposed Kelly Hills/Slocumb Road water/sewer district boundary

To the extent possible, the boundaries follow voter precinct boundaries and may incorporate several voter precincts into a single district. There is an advantage to defining a water/sewer district with the voter base already established, given that a bond referendum is required to secure project funding through USDA-Rural Development Administration.

The Policy Committee recommends that the Board approve the map understanding there may be some changes due to the NORCRESS project.

Some suggestions the Board made were to rethink the names of the districts and not to get to hung up on density figures. In addition it was suggested that the area noted as the Beaver Dam area may need to be divided into two districts.

ACTION: No action needed

Although no action is needed, the Board encouraged staff to move forward with this project.

6. Consideration of authorization to publish a legal notice of consideration of a Resolution of Intent regarding Long-term Acute Care Hospital at Highsmith-Rainey, and setting a Special Meeting for December 5, 2001 to consider this Resolution of Intent

BACKGROUND: Cape Fear Valley Health System obtained State approval of a Certificate of Necessity to sponsor a Long Term Acute Care Hospital at Highsmith Rainey Memorial's fourth floor. The Hospital wishes to being the process of soliciting proposals for a company to sublease the fourth floor for that purpose. The General Statutes require a fairly elaborate process for consideration of leasing a portion of a local government hospital's facilities. The first step is to publish a legal notice that the Board will consider a resolution of intent to sublease the facilities. The next step is to adopt the resolution and schedule a public hearing on the matter. At least five bids must be sought. A second public hearing must be held on the bids that have been received. A bid may be accepted and the sublease approved at a regular meeting after the second public hearing. In order to meet the Hospital's schedule, the initial legal notice concerning the Board's intention must be published on November 23, 2001 and counsel recommend that a special meeting be held on December 5, 2001, in conjunction with the Hospital System's Board of Trustees meeting to adopt the Resolution of Intent.

ACTION: Authorize publication of notice of consideration of Resolution of Intent and call a special meeting for December 5, 2001 to consider adoption of the Resolution of Intent.

MOTION: Commissioner Blackwell moved to approve.
SECOND: Commissioner King
VOTE: UNANIMOUS

7. CLOSED SESSION:

Attorney Client Matter – Cumberland County vs. Roger Figg
Economic Development Matter
Personnel Matter
Property Matter

MOTION: Commissioner Council moved to go into Closed Session for the above noted matters.
SECOND: Commissioner King
VOTE: Unanimous

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

MEETING ADJOURNED: 10:00PM

Clerk to the Board