
Minutes
Cumberland County Board of Commissioners
October 15, 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 Jeannette Council
Commissioner Kenneth Edge
Commissioner John Henley, Jr.
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Tom Lloyd, Planning Department
Marsha Fogle, Clerk to the Board

ABSENT: Billy R. King (illness)

INVOCATION: Commissioner John Henley, Jr.

PLEDGE:

RECOGNITION: Miss Fayetteville – Rebekah Chantay Revels

RECOGNITION: Outgoing Board/Committee Members:

Frances Brunson – Nursing Home Advisory Board
Mary E. Dillon – Mid Carolina Aging Advisory Committee
Eleanor R. Hodges – Mid Carolina Aging Advisory Committee
Dr. Inder Pal Nijhawan – Industrial Facilities & Pollution Control
Jerome T. Scott – Recreation Advisory Board
John M. Tyson – Joint Planning Board
Ben Wilson – Minimum Housing Appeals Board
Marsha Fogle – NCACC Conference

AMENDMENTS TO AGENDA:

Move Rezoning Case 1E (P01-80) to contested Cases.

Move Rezoning Case 1G (P01-79) to uncontested Cases.

1. PUBLIC HEARINGS

Uncontested 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 district is suitable for all uses permitted by the new classification, the following motion was offered:

MOTION: Commissioner Edge moved to follow the Planning Board recommendations on Uncontested Cases A,B,C,D &G.

SECOND: Commissioner Council

VOTE: UNANIMOUS

A. Case P01-73. The rezoning of 2.34 acres from R6A to C(P) or a more restrictive zoning district, at 3744 Dunn Road, owned by Ruth and Charlie S. Cain, Jr.

The Planning Board recommends approval of C(P).

B. Case P01-74. The rezoning of .28 acres from R10 to R6A, or a more restrictive zoning district at 167 Elm Street, owned by Cynthia P. Harris

The Planning Board recommends approval of R6A.

C. Case P01-76. The rezoning of 1.09 acres from A1 to R40A or to a more restrictive zoning district, on Sambo Jackson Road, northeast of Stewart Road, owned by Donald and Constance Vann

The Planning Board recommends approval of R40A.

D. Case P01-77. The rezoning of .57 acres from R10 to R6A, or a more restrictive zoning district, at 2830 George Owen Road, owned by Teresa B. Spell

The Planning Board recommends approval of R6A.

G. Case P01-79. The rezoning of 2.66 acres from A1 to RR or to a more restrictive zoning district, at 4625 Macedonia Church Road, owned by William D & Edna J. Canady Carter

The Planning Board recommends denial of RR and approval of R40A.

Contested Rezoning Cases

E. 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 – Attorney for the petitioners - Ms. Berg noted there was no opposition at the Planning Board meeting. She said Ms. Virginia Frye who has signed up to speak in opposition at this meeting is not opposed to the rezoning, but is interested in making sure there is a buffer between the commercial zoning and Ms. Frye's property. Ms. Berg said a buffer will be required as part of the zoning regulations, which should address Ms. Frye's concerns.

Virginia Frye – Ms. Frye said she wants a 60-foot buffer to protect her property. Ms. Frye noted she has Wal-Mart on two sides of her property now and she does not want any more problems. She urged the Board to approve the 60-foot buffer.

Ms. Berg said she did not think her client would agree to a 60-foot buffer.

It was noted that a site plan will be required and the Planning Staff will at that time determine the size of the buffer.

Commissioner Baggett noted the importance of the buffer as it delineates where a neighborhood begins and commercial ends. Mr. Baggett said this might be a case where conditional use overlay district should be considered.

MOTION: Commissioner Baggett moved that the Board send this case back to the Planning Board for consideration of conditional use overlay district.

SECOND: Commissioner Blackwell

DISCUSSION: Chairman Warren pointed out we rezoned the property to the west (34 acres) C(P) and we should be willing to do the same for this local family who wishes to use the property to its highest best use. Commissioner Henley said it is inevitable that the property around the Frye's will ultimately be C(P). Some of the commissioners inquired if the two parties could meet and work out a compromise.

VOTE: FAVOR: Commissioners Henley, Blackwell, Council, Baggett

OPPOSED: Commissioners Edge and Warren

F. Case P01-75. The rezoning of 36.11 acres from A1 to R15 or to a more restrictive zoning district on Old Vander Road, north of Macedonia Church Road, the property of Lannie A. Holmes

The Planning Board recommends denial of R15 and approval of R40.

Commissioner Baggett disclosed that he is the guardian for Ms. Homes and asked the Board to

allow him to abstain from voting on this matter.

MOTION: **Commissioner Blackwell moved to allow Commissioner Baggett to abstain.**

SECOND: **Commissioner Edge**

VOTE: **UNANIMOUS**

SPEAKERS:

Jimmy Kizer, representing Alan Powell, petitioner. Mr. Powell wishes to have the land rezoned so he can build stick-built homes. Mr. Kizer said that Brookwood Water will supply the water to the lots. He also said that a certified soil scientist indicated the property would be suitable for septic tanks. He said Mr. Powell would prefer to have RR zoning as opposed to R40.

Stanford Starling spoke in opposition to the rezoning. He said the area needs to remain rural in nature. He asked the Board to leave the zoning as it is.

Upon finding the requests 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 Henley move to follow the recommendation of the Planning Board and rezone the property R40.**

SECOND: **Commissioner Council**

VOTE: **FAVOR: Commissioners Henley, Blackwell, Edge, Council**

OPPOSED: Commissioner Warren

ABSTAINED: Commissioner Baggett

Conditional Use Overlay

H. Case P01-51. A Conditional Use Overlay District and Permit to allow Mini Warehousing on 6.3 acres in a PND District at 1815 Bingham Drive, owned by Iris Lee Draughon

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

- a six - foot berm or privacy fence with appropriate evergreen vegetation will be placed wherever residential property abuts the subject property;
- lighting is to be low intensity and directed inward;
- the tract made up of the corner lots on Pepperbush must be recombined and platted as a single lot.

MOTION: **Commissioner Blackwell moved that the Board find 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 Henley

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board find that the 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 and that it be approved with the conditions as noted above.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

I. Case P01-72. A Conditional Use Overlay District and Permit to allow a Car Wash in an HS(P) District at 4747 Maxwell Road, containing 1.8 acres, owned by the Lennon Family Limited Partnership

The Planning Board recommends approval of the overlay district and permit.

MOTION: Commissioner Blackwell moved that the Board find 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 Edge

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board find that the 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 and that it be approved.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

Amendment to Ordinance

J. Case P01-78. Revision and amendments to the Cumberland County Code of Ordinances, Appendix B, Section 3.20, to address the location of accessory structures in unzoned areas

The Planning Board recommends approval of the amendments as follows:

e. NO accessory building shall be erected in any required front or side yard or within fifteen feet of any side street line or within five feet of any lot line not a street line or within five feet of any building or any other accessory building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure or structures on the adjoining lot.

MOTION: Commissioner Baggett moved to approve the amendments as recommended.

SECOND: Commissioner Council

VOTE: UNANIMOUS

Minimum Housing Hearing

K. Minimum Housing Hearing for the following properties owned by Albert H. & Vivian W. Smith:

MH1237, 5933 Gregory Street, PIN: 4019.12-85-7916

MH1238, 5943 Copley Circle, PIN: 4019.12-85-6829

MH1239, 5935 Copley Circle, PIN: 4019.12-85-6829

MH1240, 1238 Tammy Street, PIN: 4019.12-85-4799

MH1241, 1234 Tammy Street, PIN: 4019.12-85-4799

MH1242, 1230 Tammy Street, PIN: 4019.12-85-4799

MH1243, 1228 Tammy Street, PIN: 4019.12-85-4799

MH1244, Adj. to 1238 Tammy Street, PIN: 4019.12-85-4799

Affidavit of the Housing Inspector's Report before the Board of Commissioners:

I, Deborah Simpson, 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 MH1237-00 through 1244-00 and is identified as Item 1K.

Property Owner: Albert H & Vivian W Smith

Property Address: This property consists of eight (8) mobile homes at Gregory, Copley & Tammy Streets

Tax PIN: 0419.12-85-7916/0419.12-85-6829/0419.12-85-4799

SYNOPSIS: This property was inspected on 3/1/01. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 3/28/01. No owner or party of interest attended the Hearing. It was ordered that the structures 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 5/12/01. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 9/12/01 and today, no corrective action had been made to the structures. The structures are presently vacant and unsecured. In their present state, these structures constitute a fire, health and safety hazard. It is also noted that the permit issued for each of these parks has been revoked by the Health Department. The estimated cost to repair each structure to a minimum standard for human habitation, and the current

value by the Assessor for Cumberland County is as follows:

Cost to repair:

4019.12-85-7916	5933 Gregory Street	(MH 1237)	\$10,000	Valued at \$500.00
4019.12-85-6829	5943 Copley Circle	(MH 1238)	\$10,000	Valued at \$500.00
	5935 Copley Circle	(MH 1239)	\$14,000	Valued at \$500.00
4019.12-85-4799	1238 Tammy Street	(MH 1240)	\$20,000	Valued at \$500.00
	1234 Tammy Street	(MH 1241)	\$20,000	Valued at \$500.00
	1230 Tammy Street	(MH 1242)	\$20,000	Valued at \$500.00
	1228 Tammy Street	(MH 1243)	\$20,000	Valued at \$500.00
Adjacent to	1238 Tammy Street	(MH 1244)	\$10,000	Valued at \$500.00

It is the recommendation of the Inspection Department that the structures be demolished and the debris removed from the lot.

MOTION: Commissioner Baggett moved

To adopt the order and report of the Minimum Housing Inspector as the true facts in this case;

To order the property owner to remove or demolish the dwellings within sixty (60) days;

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

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 Blackwell

VOTE: UNANIMOUS

2. CONSENT AGENDA

Commissioner Blackwell asked that Item 2E be removed from the Consent Agenda.

MOTION: Commissioner Blackwell moved to follow staff recommendations on the items on the Consent Agenda, excepting 2E.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

A. Approval of Minutes: October 1, 2001 and September 25, 2001

ACTION: Approve

B. Approval of Tax Collector's Settlement of September 30, 2001

BACKGROUND: NCGS 105-373 requires the Tax Collector upon resignation to make a full settlement for all taxes collected. The statute requires the Board to review the report and approve or correct the settlement.

ACTION: Approve (Attachment A to these Minutes)

C. Approval of declaration of surplus Cumberland County Crown Coliseum Equipment and authorization for disposition

BACKGROUND: The Civic Center has disposed of a used basketball practice floor to the Sports Zone for \$7,500. The Sports Zone is the former Arena tenant. Because of a mistake in procedure, a proposal for such a sale of personal property valued at over \$5,000 was not presented to the Board of Commissioners for a resolution authorizing sale and directing a notice to be published.

ACTION: Adopt resolution declaring property surplus, direct that a notice be published under GS 160A-267 of the Board's intention to confirm and ratify the sale of the practice floor to Sports Zone for \$7,500, and that the Board ratify such sale at its next regular meeting, at least 10 days after the publication of the notice.

RESOLUTION

WHEREAS, the basketball practice floor owned by Cumberland County Coliseum is no longer being used; and

WHEREAS, the Coliseum has sold it to its former tenant, the Sports Zone, for \$7,500; and

WHEREAS, NCGS 160A-267 gives the Board of Commissioners the authority to dispose of such property provided the Board declares the property surplus, pre-approves the sale, and directs the County to advertise the proposed sale; and

WHEREAS, this sale took place prior to authorization by the Board.

NOW, THEREFORE, the Board of Commissioners resolves that the prior sale of the basketball practice floor is to be published, along with a Notice of the Board's intention to confirm and ratify the sale.

RESOLVED that this matter will be finalized and confirmed at the next regularly scheduled meeting of the Board.

D. Approval of declaration of Surplus Cape Fear Valley Health System equipment and furnishings and authorization for disposition

BACKGROUND: The Hospital Board of Trustees, on September 26, 2001, declared certain equipment surplus, subject to approval by the Board of Commissioners and requested instructions as to disposition.

ACTION: Declare the property surplus to the needs of the hospital, and authorize for disposition through sale, scrapped or traded as deemed appropriate by the Hospital or transfer to other county departments. (List of items may be found at the office of the CEO at Cape Fear Valley Health System).

E. Approval of sale of surplus county-owned real property acquired by tax foreclosure – 2310 Slater Avenue Extention

BACKGROUND: In 1997 the County acquired by tax foreclosure the above listed property located in Cross Creek Township. The total amount owed plus interest and costs if \$5,480. Also owed to the county is a lot clearing fee of \$2,900 and a landfill disposal fee of \$3,874.44, totaling an additional fee to the County of \$6,774.44. Dr. Thomas Leak on behalf of Smith Temple Church of God in Christ has offered to purchase the County's interest in the property for \$5,480 and has deposited \$1,225.50 in the Finance Office. The Church is requesting that the \$6,774.44 fee be waived. Note: The value of the property is \$150.

ACTION: Approve the sale in the amount of \$5,480 and waive the lot clearing fee and landfill disposal fee.

Commissioner Blackwell noted his concern about selling the property for less than the County has in it. He said he did not think the County should waive the lot clearing fee and the landfill disposal fee. He said he was concerned we would be setting a precedent. Commissioner Baggett said he agreed with Commissioner Blackwell; however in this case this lot is only 32 ½ feet wide and is not buildable. He said this very well could be the only offer we would get for it. It was noted the church is located right beside this very small piece of dirt. Commissioner Baggett suggested we should perhaps go ahead and sell the lot. This is an unusual lot and this action would not set a precedent.

MOTION: Commissioner Blackwell moved to approve the sale and waive the fees.
SECOND: Commissioner Council
VOTE: UNANIMOUS

F. Approval of Report on Destruction of Finance Department Records

BACKGROUND: Pursuant to a resolution adopted by the Board of Commissioners on 2/4/85, the County Manager has authorized destruction of the following documents:

1. Records with 3-year retention requirement (dated prior to 7/1/98):
 - fiscal correspondence/memos
 - bank statements, canceled checks, deposit slips, reconciliation file
 - purchasing requests for proposals for purchase contracts, purchase orders & requisitions
 - cash receipt report files
 - check registers
 - investment records
 - journal vouchers
 - LGC financial statements
 - Invoices
 - Employee earnings record file – Local Government Retirement System monthly reports
 - Payroll file – salaries paid & deductions file.
2. Records with 2-year retention requirement (dated prior to July 1, 1999)
 - employee benefits register file
3. Records with 1-year retention requirement (dated prior to 7/1/00)
 - daily journal and ledger printouts
 - monthly detail reports, except June 30 which is permanent
4. Records that have been superseded or are obsolete:
 - property and equipment inventory files.

G. Approval of request to add Bladen County to the Mid Carolina Rural Transportation Planning Organization (RPO)

BACKGROUND: On July 2, 2001 the Board of Commissioners adopted a Memorandum of Understanding to include Cumberland County as a member of the Rural Transportation Planning Organization. On September 26, 2001 Secretary of Transportation Lyndo Tippet announced that formation of our RPO and presented its charter which included Bladen County. In order to complete the organization documents, the Board should approved an addendum to the Memo of Understanding to include Bladen County's membership.

ACTION: Approve addendum adding Bladen County.

H. Approval of the Cumberland County 2001 Emergency Operations Plan

BACKGROUND: The County's Emergency Operations Plan has been revised and addresses the operational functions that would be in place during large scale county emergencies. Included in the revision are addendum to the 1997 Plan – Weapons of Mass Destruction and

Animal Protection Plan. This plan assures that the county, the municipalities, industry and the military communities can effectively respond to and recover from an emergency.

ACTION: Approve the Plan.

I. Budget Revisions:

(1) Library – Increase in revenue/expenditures in the amount of \$36,840 to establish a budget for EZ-LSTA Hispanic Services Grant (B02-172) Funding Source – EZ-LSTA Hispanic Services Grant

(2) Health – Increase in revenue/expenditures in the amount of \$44,209 to budget escrowed earnings in order to fund the completion of the Health Department cabling project (B02-173-173I) Funding Source – Health Department Fund Balance

REGULAR AGENDA

3. Nominations to Boards/Committees

A. Adult Care Home Community Advisory Committee (4 vacancies)

BACKGROUND: The following positions are vacant:

Ander J. Dunham, Jr. – Eligible for reappointment
Landon R. Hadley – Not eligible for reappointment
Susan Phillips – Need replacement
Mary C. Pickens – Need replacement

Nominees: Ander Dunham, Jr. – Reappointment
Carla Blake
Teresa Johnson
Clemonteen McCummings

B. Civic Center Commission (1 vacancy)

BACKGROUND: Ruth Davis has resigned her position on this Board. Her term will expire January 1, 2004.

Nominees: Commissioner Henley nominated Robert Ray.
Commissioner Council nominated Terri Allen
Chairman Warren nominated H.B. Smith

C. Southeastern Economic Development Commission (4)

BACKGROUND: The Board of Commissioners approved rejoining the Southeastern Economic Development Commission. We must now make four appointments to represent our county on this commission. One of the slots should be filled by an elected official. In addition one of the appointees should be designated to serve on the Executive Committee. The County Manager has recommended that Deputy County Manager Juanita Pilgrim be appointed and be designated for the Executive Committee. The Board will also need to designate terms for those individuals appointed (1-4 years)

NOMINEES: Juanita Pilgrim – 4 year term – Executive Committee
 Commissioner Billy King – 1 year term
 Commissioner Kenneth Edge – 2 year term

Commissioner Henley suggested that we contact FAEDC and ask them to fill the fourth slot, which will be a three year term.

4. Report on Comprehensive Planning Meeting

REPORT: On October 2, 2001, the staff from the Institute of Government held a meeting at the Hope Mills Town Hall to discuss the issue of county-wide comprehensive planning. Mayors, Managers or Clerks from all municipalities, the Chairman of the Board of Commissioners, County Manager and the Board of Education Chairman and Superintendent were invited. Elected officials were encouraged to discuss the project with their respective Boards and within the next 30 days seek endorsement of the project and agreement to serve as principals on a steering committee.

ACTION: Confirm the Board's endorsement of the Comprehensive Planning Project and designate the Chairman or his designee to serve on the steering committee.

MOTION: Commissioner Blackwell moved to endorse the Comprehensive Planning Project and designate the Chairman or his designee to serve on the steering committee.

SECOND: Commissioner Council

VOTE: UNANIMOUS

Chairman Warren asked the County Manager to continue to go the meetings also.

5. CLOSED SESSION: Personnel Matters (4) Attorney Client Privilege Matter

MOTION: Commissioner Blackwell moved to go into Closed Session for the above named matters.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

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

MOTION: Commissioner Baggett moved to appoint Ronald Doc Nunnery Emergency Services Director at a salary of \$57,280 (Grade 75), effective immediately.

SECOND: Commissioner Council
VOTE: UNANIMOUS

Note: The Emergency Management Department and Emergency Dispatch were combined and will be directed by Mr. Nunnery.

MOTION: Commissioner Blackwell moved to appoint Charles Whittenton Director of the Solid Waste Department at a salary of \$51,534 (Grade 75), effective immediately.

SECOND: Commissioner Council
VOTE: UNANIMOUS

Note: Mr. Whittenton has served as Interim Director of this department for several months.

MOTION: Commissioner Council moved to appoint Patrick Hurley Workforce Development Director at a salary of \$51,534 (Grade 75), effective immediately.

SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

Note: Mr. Hurley has served as Interim Director of this department since Pauline Goodman retired.

MOTION: Commissioner Baggett moved to merge the Planning and Inspection Departments and appoint Mr. Barry Warren as the Director at a salary of \$82,500 (Grade 76), effective immediately and approved the reclassifications and salaries as follows:

- Inspections Director (Grade 74) to Code Enforcement Coordinator (Grade 70) at a salary of \$51,806 per annum;
- Assistant Inspections Director (Grade 71) to Inspections Coordinator (Grade 70) at a salary of \$42,724 per annum;
- Planning Director (Grade 77, \$71,000) to Planning/Inspections Director (Grade 80) at a salary of \$82,500 per annum;
- Establish a new classification of Code Enforcement Officer II (Grade 65) with a minimum salary of \$28,422;

- **Authorize new classification for Deputy Planning/Inspections Director (Grade 76), funding for position will be requested in FY03 budget (Manager said this was questionable);**
- **Authorize the elimination of one currently vacant minimum housing position budgeted at \$27,153.**

SECOND: Commissioner Henley
VOTE: UNANIMOUS

Note: The merger of these two departments will result in overall savings initially of \$5,000 - \$6,000. Some improvements will be that all zoning and minimum housing inspectors will be cross trained. Inspectors currently certified in one discipline will be cross-trained in all four disciplines (building, electrical, plumbing and mechanical). This cross training will reduce the number of trips to a typical family dwelling unit from 12 to 5. Incremental salary adjustments will be necessary as a mechanism to encourage attaining the higher levels of qualification. There will also be a decrease in travel cost over a period of time due to fewer trips. Down the road computer software will be developed to allow builders to apply for permits via computer on simplified forms.