

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
OCTOBER 7, 2002, 9:00AM
REGULAR MEETING

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

INVOCATION: Commissioner Jeannette Council
Chaplain Diana Smith, Cape Fear Valley Health System

PLEDGE OF ALLEGIANCE

Additions to Consent Agenda:

Approval of Fire Protection Insurance District Map and written description of the Grays Creek Fire District served by Grays Creek Fire Department Station 18

Approval of a Proclamation proclaiming October 21-25, 2002, National Business Women's Week

MOTION: Commissioner Edge moved to add the above to the Consent Agenda.
SECOND: Commissioner Council
VOTE: UNANIMOUS

1. CONSENT AGENDA

Commissioner Henley asked that Items 1C and 1G be pulled from the Consent Agenda and acted on separately.

MOTION: Commissioner Council moved to follow staff recommendations on the items on the Consent Agenda, excepting Items 1C and 1G.
SECOND: Commissioner Henley
VOTE: UNANIMOUS

A. Approval of Minutes: September 16, 2002 and September 24, 2002

ACTION: Approve

B. Approval of proposed additions to State Secondary Road System

College Downs Subdivision: Emory Court
Green Needles Park Subdivision: Rockhurst Drive

ACTION: Approve

C. Approval of an offer from Falling Run Baptist Church to purchase 7.07 acres of county property on NC53-210

BACKGROUND: The County has received an offer of \$35,350 from Falling Run Baptist Church to purchase 7.07 acres on the south side of NC 53-210, immediately west of Falling Run Baptist Church, running approximately 380 feet along the highway, part of the County's property shown at Plat Book 99, Page 33, Cumberland County Registry. The Church deposited five per cent of its bid as required by law. Notice of the offer, published in the Fayetteville Observer, did not prompt any upset bids.

ACTION: Declare the property surplus to the needs of the county and convey it to the Church for \$35,350. Authorize the Chairman and Clerk to execute deed.

Commissioner Henley noted that in conversations with the Church agreement was made to add a buffer adjacent to the land the Church is purchasing along the entryway to the new industrial center. He noted the information in the packet did not make mention of this.

MOTION: Commissioner Henley moved that the county designate a 100 foot buffer alongside the road going into the new Industrial Park, which would reduce the acreage going to the church with an appropriate pro-rata reduction in the price of the property.

SECOND: Commissioner Baggett

AMENDED

MOTION: Commissioner Henley moved that the county reserve up to 100 feet for a landscape buffer adjacent to the church property and alongside the road going into the Industrial Center, reducing the amount of acreage going to the church, with an appropriate pro-rata reduction in the price of the property.

SECOND: Commissioner Baggett

VOTE: UNANIMOUS

D. Approval of report on destruction of Finance Department records

BACKGROUND: The County Manager has approved destruction of certain Finance Department records, as authorized by the Board of Commissioners.

(1) Records dated prior to 7/1/99 (3-year retention requirement)

Fiscal correspondence/memoranda
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 and deductions file))

(2) Records dated prior to 7/1/00 (2-year retention requirement)

Employee benefits register file

(3) Records dated prior to 7/1/01 (1-year retention requirement)

Daily journal, ledger printouts, monthly detail reports, except June 30, which is permanent

(4) Obsolete or records that have been superseded
Property & equipment inventory files

E. Clarification of appointments made to the Adult Care Home Community Advisory Board on September 3, 2002

BACKGROUND: The Board was recently asked to replace Ms. Ada R. Harris along with two other members of the ACHCAC. Mid Carolina COG asked that Ms. Harris be replaced as they had been unable to contact her for some time. The Board made 3 appointments to the committee on September 3, 2002. The persons were notified of their appointments. During that same time, Ms. Harris contacted Mid Carolina COG and said that she wishes to remain on the Board and that she can now be an active member. Since one of the persons appointed on September 3 has declined appointment, no problems will arise from Ms. Harris' advisement that she does not want to be removed from the committee.

ACTION: No action needed, FYI.

F. Approval of Cape Fear Valley Health System acquiring property located at 3318 Melrose Road, Fayetteville, NC

BACKGROUND: On September 25, 2002, the Hospital Board of Trustees approved the purchase of property at 3318 Melrose Road at the appraised value of \$485,000 plus closing costs. The purchase requires the approval of the Board of Commissioners.

ACTION: Approve the purchase.

- G. Approval of Sale of Surplus Property acquired by tax foreclosure – Lot 197, Bonnie Acres – PIN 0418-59-0603

BACKGROUND: Reade A. Hamilton has offered to purchase the property for \$737.58, the amount of the judgment and closing cost, and has deposited \$73.75 in the Finance Department. The value of the property is \$5,000.

ACTION: Accept the offer and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

Commissioner Henley noted the difference in the bid and the value of the property.

MOTION: Commissioner Henley moved to approve.

SECOND: Commissioner Baggett

VOTE: FAVOR: Commissioners Henley, Baggett, Blackwell, Council, Edge and Warren

OPPOSED: Commissioner King

- H. Approval of Sale of Surplus Property acquired by tax foreclosure – East Portion, Lot 8, Block A, Hollywood Heights, Section 2, PIN 0407-52-9365

BACKGROUND: Larry Ross has offered to purchase the property for \$128.82, the amount of the judgment and closing cost, and has deposited \$12.88 in the Finance Office. The value of the property is \$128.82.

ACTION: Accept the offer and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- I. Approval of Sale of Surplus Property acquired by tax foreclosure – East Portion, Lot 2, Block A, Hollywood Heights, Section 2, PIN 0407-52-9719

BACKGROUND: Larry Ross has offered to purchase the property for \$196.09, the amount of the judgment and closing costs, and has deposited \$12.61 in the Finance Department. The value of the property is \$195.00.

ACTION: Accept the offer and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- J. Approval of Sale of Surplus Property acquired by tax foreclosure – South Part, Lot 304, Hollywood Heights, Section 11, PIN 0407-22-2794

BACKGROUND: Larry Ross has offered to purchase the property for \$145.43, the amount of the judgment and closing costs, and has deposited \$14.54 in the Finance Department. The value of the property is \$195.00.

ACTION: Accept the offer and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- K. Budget Revisions:

- (1) NC Cooperative Extension Service (B03-137) – Amount: \$6,905 – to appropriate fund balance to roll forward unexpended Baby Think It Over funds from FY01 – Funding Source – Grant

- (2) JCP Programs (B03-145-145A) – Amount: \$47,891 – to appropriate fund balance to refund to the NC Department of Juvenile Justice & Delinquency Prevention overpayments for FY02 – Funding Source – JCP Fund Balance

- (3) Library

B03-141 – Amount: \$3,843 – to reallocate budgeted expenditures from operating to salaries and fringes to increase the salary for a Librarian III position – Funding Source – Reallocation of Budgeted Expenditures

B03-143 – Amount: \$1,000 – to recognize a donation from The Kiwanis Club of Fayetteville for the purchase of children’s books
– Funding Source – Donation

- (4) Health (B03-142) – Amount: \$9,441 – to reallocate budgeted expenditures from salary adjustment to salaries and fringes and to budget additional funds for a Public Health Nurse Consultant – Funding Source – Reallocation of Budgeted Expenditures
 - (5) 1998 School Bond Projects (B03-146) – Amount: \$227,709 – to budget interest earned in FY02 – Funding Source – Interest
 - (6) School Capital Outlay Category I (B03-147) – Amount: \$598,000 – to appropriate fund balance of \$498,000 and reallocate expenditures of \$100,000 to fund the Board of Education’s Human Resources Facility project and to approve associated Capital Project Ordinance – Funding Source – School Sales Tax Fund Balance and reallocation of budgeted expenditures
 - (7) Finance (B03-148) – Amount: \$584 – to reclassify funds currently budgeted within the salary appropriation to fund salaries for FY2003 – Funding Source – Reallocation of Budgeted Expenditures
 - (8) Sheriff’s Office (B03-150) – Amount: \$6,500 – to appropriate fund balance from a citizens donation in FY02 to purchase undercover surveillance equipment – Funding Source – Appropriated Fund Balance
 - (9) Federal Forfeiture – Treasury (B03-151) – Amount: \$41,651 – to appropriate fund balance to purchase biohazard and other anti-terrorism response equipment for Sheriff’s Deputies – Funding Source – Federal Forfeiture Treasury Fund Balance
 - (10) NC Controlled Substance Tax (B03-152) – Amount: \$60,000 – to appropriate fund balance to purchase less-than-lethal weapons, K-9 patrol/drug dog & other law enforcement equipment – Funding Source – NC Controlled Substance Tax Fund Balance
 - (11) Eastover Water System Project (B03-154) – Amount: \$25,000 – to rebudget unused funds to pay for additional engineering and construction work as approved by the Eastover Sanitary District Board of Directors – Funding Source – Reallocation of budgeted expenditures
- L. Approval of the Fire Protection Insurance District map and the written description of the Grays Creek Fire District, served by the Grays Creek Fire Department Station 18

BACKGROUND: The NC Department of Insurance inspects and assigns a rating to all fire departments in North Carolina with a population of 100,000 or lower. The Gray’s Creek Fire Station received an ISO Class 7 rating in 1985. This rating directly affects the insurance premiums homeowners and businesses pay each year for fire insurance coverage in the district. In an effort to lower the ISO rating, the NC Department of Insurance was requested to visit the district and do an inspection. One area that needed upgrading was the Insurance District map and matching written description. Previously, protection classification for properties inside the district was set by ISO at 4 miles. Since the last inspection by ISO, the NC Legislature and the Department of Insurance allows 5 miles to receive an ISO rating between 1-8. The group has now given an extra mile of protection classification to 6 miles and can receive a 9S rating for the area between the 5th & 6th mile. Before the extra mile was approved, this area would have received a Class 10 rating or unprotected status.

A new map and written description have been developed showing the new 5&6 mile areas as it applied to the district. The NCDOI Inspector stated during his visit “if a map and written description is completed showing the 5/6 mile district while I am here doing the review, I will approve it to avoid a time delay.”

ACTION: Approve map and description

DESCRIPTION OF GRAY'S CREEK VOLUNTEER FIRE DEPARTMENT, INC.
CUMBERLAND COUNTY STATION 318
INSURANCE RATED DISTRICT (6 MILES)
CUMBERLAND COUNTY, NORTH CAROLINA

Beginning at a point (1) on SR 2252, Chicken Foot Road, 0.6 miles southeast of the intersection with SR 2241, Clifton McNeil Road, thence easterly to a point (2) on SR 2241, H. Bullard Road 0.1 miles southwest of its intersection with SR 2240 H. Bullard Road, thence southeasterly to a point (3) on SR 2244, John McMillan Road 0.4 miles southwest of its intersection with SR 2245, Thrower Road, thence northeasterly to a point (4) on NC 87, 0.1 miles south of its intersection with SR 2245, Thrower Road, excluding property on SR 2244, John McMillan Road and SR 2245, Thrower Road, between this and the preceding point, thence easterly to a point (5) on Gray's Creek Church Road SR 2235, 0.2 miles southwest of its intersection with SR 2236, Hub Johnson Road, thence southeasterly to a point (6) at the intersection of SR 2233 Butler Nursery Road, and SR 2232, Marsh Road, excluding property on SR 2236, Hub Johnson Road, thence northeasterly to a point (7) at the Cape Fear River, then following the Cape Fear River in a southern direction to a point (8) at the intersection of the Bladen-Cumberland County line, thence in a southwesterly direction following the Bladen-Cumberland County line to a point (9) at the intersection of the Bladen-Cumberland and Robeson County line, thence northwesterly following the Cumberland-Robeson County line to a point (10) 0.2 miles from the intersection of the Cumberland-Robeson County line and SR 2244, John McMillan Road, thence northeasterly to a point (11) on John McMillan Road, 0.2 miles from the Cumberland-Robeson County Line on SR 2244, John McMillan Road, thence northeasterly to a point (12) on a private road, being located north of the intersection of SR 2244, John McMillan Road and SR 2249 Canady Pond Road, 0.4 miles from its intersections with SR 2244, John McMillan Road, thence northeasterly to a point (13) on Private Road – Walter Canady Road, 0.5 miles from its intersection with SR 2244 John McMillan Road, thence east to a point (1) on SR 2252, Chicken Foot Road, the Beginning Point.

Notes: Points 1,13 are adjoining points with the Cotton Fire District
Points 2,3,4,5,6 are adjoining points with the GC Sherwood Fire District
Points 7,8 follow the Cape Fear River
Points 8,9 are adjoining points with the Tobermory Fire District & follow the Bladen-Cumberland County lines
Points 9,10 follow the Cumberland-Robeson County line

M. Consideration of the adoption of a Proclamation proclaiming October 21-25, 2002 "National Business Women's Week

ACTION: Adopt

PROCLAMATION

WHEREAS, working women constitute 62.7 million of the nation's work force and strive to serve their communities, their states and their nation in professional, civic and cultural capacities; and

WHEREAS, women-owned businesses account for over on-third of all firms in the country and provide employment for one out of every four U.S. workers; and

WHEREAS, major goals of business and professional women are to promote equality for all women and to help create better conditions for business women through the study of social, educational, economic and political problems; and

WHEREAS, all of us are proud of their leadership in these many fields of endeavor.

NOW, THEREFORE, the Board of Commissioners jointly proclaims with the City of Fayetteville, October 21-25, 2002 "National Business Women's Week" and urges all citizens in Fayetteville and Cumberland County, North Carolina, to join in this salute to our working women. FURTHER, we encourage and promote the celebration of the achievements of all business and professional women as they contribute daily to our economic, civic and cultural purposes.

REGULAR AGENDA ITEMS

2. Presentation of FY02 Annual Report by Wayne Marshburn, Judicial District Manager, Division of Community Corrections

Mr. Marshburn said its mission is to protect the safety of citizens throughout Cumberland County and the State of North Carolina by providing alternatives and meaningful supervision to offenders placed in our custody. He reviewed the different

sanctions in place to accomplish that mission, i.e., Split Sentence, Residential Community Corrections, Electronic House Arrest, Day Reporting Center, DART (Drug Alcohol Recovery Treatment) and Intensive Supervision. He also noted other programs in place to help accomplish the mission, i.e., Sergeant Redd's P.T. Program, Sex Offender Control Program, Drug Lab, Domestic Violence, Victim Services, Cease Fire/Project Safe Neighborhoods, Community Policing, Offender Management Model, and Cognitive Behavioral Intervention

Mr. Marshburn noted that the 12th Judicial District supervises 3169 offenders on either probation or parole. He said offenders on probation save money not only for the State but for the County of Cumberland.

3. Consideration of a Resolution authorizing the third one-half cent local government sales and use tax

BACKGROUND: The General Assembly enacted S1292, authorizing a third one-half cent local options sales tax as early as December 1, 2022. Although the Board of Commissioners has acted previously, it must again act pursuant to S1292 to authorize and enact the additional tax for Cumberland County.

ACTION: Adopt Resolution enacting the tax.

RESOLUTION LEVYING THE THIRD ONE-HALF CENT LOCAL GOVERNMENT
SALES AND USE TAX AND PRESCRIBING THE METHOD OF DISTRIBUTION
OF THE PROCEEDS WITHIN CUMBERLAND COUNTY

WHEREAS, the General Assembly has authorized the Cumberland County Board of Commissioners to levy a one-half percent (1/2%) local sales and use tax by enacting NCGS 105-517(b) in Section 34.14(a) of Session Law 2001-424, as amended by S.L. 2002-123, "An Act to Accelerate the Additional One-half Cent Local Option Sales and Use Tax and to Make Conforming and Technical Changes," and

WHEREAS, the Cumberland County Board of Commissioners gave proper public notice on September 30, 2002, of the Board's intent to consider this resolution, as required by Section 10 of S.L. 2002-123, and

WHEREAS, Cumberland County has lost \$5,239,758 in funds made available by the State of North Carolina to replace revenue lost because of legislative action: (1) to repeal sales taxes imposed on purchases made with Food Stamps; (2) to repeal property taxes imposed on inventories held by manufacturers, retailers and wholesalers; (3) to repeal taxes on intangible personal property; and (4) to reduce taxes levied on residential property owned by low-income elderly taxpayers; and

WHEREAS, the Cumberland County Board of Commissioners hereby finds that, particularly in light of the circumstances cited herein, the levy of "The Third One-Half Cent Local Government Sales and Use Tax" is necessary to adequately finance the operations of the county and the cities and towns herein.

NOW, THEREFORE, BE IT RESOLVED by the Cumberland County Board of Commissioners that:

- (1) There is hereby imposed and levied within Cumberland County the third one-half cent Local Government Sales and Use Tax authorized by Section 34.14(a) of S.L. 2001-424, as amended by S.L. 2002-123, and codified as Article 44 of Chapter 105 of the General Statutes of North Carolina. The tax hereby imposed and levied shall apply to the same extent and be subject to the same limitations as are set forth in said S.L. 2001-424.
- (2) Collection of the tax by the North Carolina Secretary of Revenue, and liability therefore, shall begin and continue on and after the first day of December, 2002.
- (3) The net proceeds of the tax levied herein shall be distributed by the Secretary of Revenue to Cumberland County as prescribed by NCGS 105-250. The amount distributed to Cumberland County shall be divided among the county and the municipalities herein in accordance with the method by which the one percent sales and use tax levied in Cumberland County,

pursuant to Article 39 of General Statutes Chapter 105, are distributed.

- (4) This Resolution is effective upon its adoption, and a certified copy hereof shall be forwarded to the North Carolina Secretary of Revenue.

Adopted this 7th day of October, 2002.

MOTION: Commissioner King moved to adopt the Resolution.

SECOND: Commissioner Warren

DISCUSSION: Commissioner Henley noted there is not a person on this Board that wants to enact the tax; however, because of the State's action to balance its budget on the backs of the counties, the county really has no option. In addition, Commissioner Henley spoke of a letter to the editor which was in the paper yesterday, October 6, which said property taxes will increase because of revaluation. Commissioner Henley noted as we go through the valuation process, citizens will be informed of what "revenue neutral" is, and it is his feeling that the Board of Commissioners will reduce the property tax rate for Cumberland County. Commissioner Baggett concurred that the Board takes no joy in raising taxes; however the sales tax is the best source of revenue for the county.

VOTE: UNANIMOUS

4. Consideration of referring rezoning case P02-74 to the Planning Board for reconsideration

BACKGROUND: Mr. James Sessoms has requested the Board rehear his case, as he was confused about the date of the hearing before the Board of Commissioners, which was scheduled September 16. Mr. Sessoms did not attend.

ACTION: Consider referring the case back to the Planning Board at no cost to the petitioner.

Chairman Blackwell noted he had spoken to Mr. Sessoms on the phone about this case. Chairman Blackwell said that sometimes our citizens are not familiar and do not understand the procedures that are in place in making zoning decisions. He said he would like for the Board to consider Mr. Sessoms' request to send it back so he will have an opportunity to argue in favor of the rezoning before the Board of Commissioners.

Commissioner Baggett noted that the Planning Board and the Board of Commissioners voted unanimously to deny the rezoning request and he was concerned that by referring the case back to the Planning Board, it might give the petitioner false hope that the vote would change. Mr. Sessoms was present when the Planning Board heard his case.

If the case were to go back to the Planning Board, as a new case, it would have to be advertised and go through the complete process again. The Board could, if it chooses, elect to send it back at no cost to the petitioner.

MOTION: Commissioner Baggett moved to deny the request to send this case back to the Planning Board.

SECOND: Commissioner King

DISCUSSION: Commissioner Henley said he has no information that would lead him to believe that the outcome of the case would be any different if it goes back to the Planning Board.

VOTE: FAVOR: Commissioners Henley, Baggett, Edge, Council, Warren, King
OPPOSED: Chairman Blackwell

5. Appointments to Boards/Committees:

MOTION: Commissioner King moved to appoint the nominees in 5A, 5B and 5C.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

- A. Juvenile Crime Prevention Council (1 vacancy)

Nominee: Henry Barry – At-large representative

B. Minimum Housing Appeals Board (2 vacancies)

Nominees: Simpson Burton (reappointment)
Mary Raynor

C. Workforce Development Board (1 vacancy)

Nominee: Wendall Troy

6. CLOSED SESSION:

A. Litigation – Fayetteville Publishing Company vs. Cumberland County (NCGS 143-318.11(a)(3))

B. Personnel Matter – NCGS 143-318.11(a)(6)

C. Approval of Closed Session Minutes

MOTION: Commissioner Baggett moved to go into Closed Session for the above noted reasons.

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Edge moved to go back into Open Session.

SECOND: Commissioner King

VOTE: UNANIMOUS

MEETING ADJOURNED: 10:40AM.

Clerk to the Board