

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
FEBRUARY 17, 2003, 7:00PM
REGULAR/REZONING MEETING

PRESENT: Chairman Talmage S. Baggett, Jr.
Vice Chairman Jeannette M. Council
Commissioner J. Breeden Blackwell
Commissioner Kenneth S. Edge
Commissioner Billy R. 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
Grainger Barrett, County Attorney
Tom Lloyd – Planning Department
Marsha Fogle, Clerk to the Board
ABSENT: Commissioner John Henley – (snowed in in West Virginia)
INVOCATION: Commissioner J. Breeden Blackwell
PLEDGE: Eagle Scout Andrew Ruth
EX-OFFICIO STUDENT: Uzma Khan – Massey Hill Classical School

Amendments to the Agenda:

Additions: Closed Session: Attorney Client matter
Report on reimbursement of funds to the county's water and sewer fund from Eastover Sanitary District
Deletions: Facilities Committee recommendation on the Animal Control Facility (deferred until the March 3rd meeting)
MOTION: Commissioner Warren moved to approve the above amendments to the agenda.
SECOND: Commissioner King
VOTE: UNANIMOUS

1. PUBLIC HEARINGS

Uncontested Rezoning Cases:

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminatory and in the public interest, the following motion was offered for the uncontested cases:

MOTION: Commissioner King moved to follow the Planning Board recommendations for the Uncontested Rezoning Cases (A-F).
SECOND: Commissioner Edge
VOTE: UNANIMOUS

- A. Case P02-100: The rezoning of .50 acres from RR to R6A, or to a more restrictive zoning district, at 4200 Camden Road, owned by David & Beula Johnson

The Planning Board recommends approval of R6A.

- B. Case P02-107: The rezoning of 10.45 acres from R10 to R6 or to a more restrictive zoning district on Crabapple Circle, north of Jennings Lane, owned by Deborah S. Bruton, Sandra Bruton, William G. Wright, Mary E. Cline and Vernell Oxendine

The Planning Board recommends approval of R6.

- C. Case P03-01: The rezoning of 2.43 acres from RR to C(P) or to a more restrictive zoning district at 527 & 531 Bethune Drive, owned by James H. Thomas

The Planning Board recommends approval of C(P).

- D. Case P03-03: The rezoning of 7.07 acres from R10 to RR or to a more restrictive zoning district at 3755 Camden Road Extension, owned by James Horton & Kathryn Horton Davis

The Planning Board recommends approval of RR.

- E. Case P03-04: The rezoning of .26 acres from R10 to O&I or to a more restrictive zoning district at 2021 Hope Mills Road, owned by Donald S. & Lesley D. Madonia

The Planning Board recommends approval of O&I.

- F. Case P03-10: The rezoning of 61.73 acres from A1 to R40 or to a more restrictive zoning district on McBryde Street, south of the Linden City Limits, owned by Bibleway Pentecostal Church Ministries, Inc.

The Planning Board recommends approval of R40.

Contested Rezoning Cases:

- G. Case P03-09: The rezoning of .51 acres from RR to R10 or to a more restrictive zoning district at 7703 Hazelwood Avenue, the property of New Jericho Deliverance Church

The Planning Board recommends approval of R10.

Speakers:

1. Blake Holloday – lives in the Holly Chase subdivision. Half-way house near a large subdivision is not appropriate. Concerned about security, safety for the children and how the presence of this half-way house will affect the future of those living in the subdivision. Mr. Holloday also noted that the petitioner is also planning to place other similar homes in the area. He said he does not want the children to be subjected to this element of society. He said these type homes should not be placed near subdivisions.
2. Tiffany Toler – 7804 Redwood Avenue. Ms. Toler has four children and has lived on Redwood Avenue for 1 ½ years. She said there are a lot of stay-at-home moms in the area and approximately 95 children. Concerned for the safety of the community. Also concerned that these half-way houses will devalue the property in the subdivision. She said a subdivision is no place to rehabilitate convicted felons.
3. Christian Pitman – 7709 Redwood Avenue. Opposed to the home(s). She said the overwhelming commonality that needs to be present to help rehabilitate people in these homes is the support of the community. This community does not support those type of homes.
4. Pastor Wayman Kirkman: Pastor Kirkman said he has been buying up property in the area in order to place some half-way houses. It was noted there is a law enforcement substation located nearby. Mr. Kirkman noted that some of the properties need to be rezoned so he can move forward with the homes.

Commissioner King reminded everyone that the issue the Board faces is to determine if an R10 is appropriate for the area, and not whether or not a half-way house is going to be put there. Mr. King noted there is R10 all around the area. If in fact the rezoning is approved, the petitioner still has to file a written application with the Board of Adjustment in order to move forward with his plans. At that time, written notice is given to anyone within 500 feet of the subject property about the hearing.

MOTION: Commissioner King moved to approve R10.
SECOND: Commissioner Council
DISCUSSION: Chairman Baggett said he was not impressed with this usage in this type of neighborhood.
VOTE: UNANIMOUS

Conditional Use Overlay District

- H. Case P03-07: A conditional use overlay district and permit to allow a plumbing company with outside storage equipment and residence on 2.50 acres in RR and R10 districts at 7051 Crest Street, owned by Warren L and Patricia B. Lee

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

- A landscaped buffer must surround the commercial area;
- All lighting is to be directed inward, away from surrounding properties;
- No outside storage is allowed unless completely buffered from the sight of any adjoining properties.

The packet material will become part of the record.

SPEAKERS:

Steve Lee – petitioner. Will hold his comments until opposition has spoken.

Ella Rose Smith – consents to the overlay as long as the conditions remain as noted above.

MOTION: Commissioner Blackwell moved 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 Blackwell moved that the Board finds that this conditional use district overlay permit application, if completed as proposed with the above added conditions, 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: Commissioner Council

VOTE: UNANIMOUS

- I. Case P03-08: A conditional use overlay district and permit to allow used car sales and a residence on 2.0 acres in an RR District at 3565 Beard Road, owned by John Patterson

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

- A landscaped buffer must surround the commercial area;
- All lighting is to be directed inward, away from surrounding properties;
- No outside storage of junk vehicles is allowed;
- No more than six cars for sale are allowed to be on the site;
- Signage is not to exceed two square feet.

The packet material is submitted as part of the record.

MOTION: Commissioner Edge moved 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 Edge moved that the Board finds that this conditional use district overlay permit application, if completed as proposed with the above added conditions, 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: Commissioner King

VOTE: UNANIMOUS

Other Planning Matters:

J. North Fayetteville Study Area Land Use Plan

BACKGROUND: The plan addresses development issues, impacted by the Outer Loop, for an area between the 401 By-pass and the Kelly Springfield Tire Plant. The Study Area encompasses both areas within the County and City of Fayetteville jurisdictions. The Plan was a joint effort by the Cumberland County Joint Planning Board and the Fayetteville Planning Commission. On January 28, 2003, both Planning Boards approved the Plan. The Plan was actually formulated by a citizens group from the area and presented to the two planning boards for approval.

ACTION: Adopt the Plan.

Commissioner King inquired as to why Murchison Road was not included in the plan. Commissioner Warren noted his concern about the MIA. He inquired if the MIA encompassed the whole study area land use plan. The response was yes. Chairman Baggett said he had great concerns about the MIA. He and Commissioner Warren expressed concern that people living out beyond Kelly Springfield would be held to the same standards as people living in the downtown area. John Gillis noted that the MIA has to be implemented through ordinances and approval of the plan does not necessarily implement MIA regulations. Commissioner Blackwell noted that a lot of work has gone into this Plan by the citizens in the area and he did not think the Board should ignore it.

MOTION: Chairman Baggett moved to approve the plan, except Map 28 and the MIA recommendation on page 66 of the plan.

SECOND: Commissioner Warren

DISCUSSION: Commissioner King said he could not vote for the motion although he hoped it would pass because of the fact that Murchison Road was not considered in the plan. John Gillis, Chairman of the Joint Planning Board, said he would talk with the Planning Board about getting Murchison Road and Bragg Boulevard into their work plan. Mr. Gillis said they would work with the City of Fayetteville on this project. Commissioner Edge

inquired when the Board would address the MIA issue. The Chairman said it could be recalendared at an appropriate time. Commissioner Warren said he was not comfortable with requiring citizens to be held to regulations made by elected officials of another jurisdiction when the citizens have no voice in the process.

VOTE: FAVOR: Commissioners Edge, Council, Baggett, Blackwell, and Warren
OPPOSED: Commissioner King

2. CONSENT AGENDA

MOTION: Commissioner Blackwell moved to follow staff recommendations on the items on the consent agenda.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Approval of Minutes: February 3, 2003

ACTION: Approve

B. Approval of a resolution declaring March 3, 2003 "Read Across America" day in Cumberland County

ACTION: Approve

RESOLUTION

WHEREAS, the citizens of Cumberland County stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future and their ability to compete in a global economy; and

WHEREAS, Cumberland County and the Cumberland County Board of Commissioners have provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is key to the community's well being and long-term quality of life; and

WHEREAS, "NEA's Read Across America," a national celebration of Dr. Seuss's birthday on March 3rd, promotes reading and adult involvement in the education of our community's student.

NOW, THEREFORE, BE IT RESOLVED that the Cumberland County Board of Commissioners calls on the citizens of Cumberland County to assure that every child is in a safe place reading together with a caring adult on March 3, 2003; and

BE IT FURTHER RESOLVED that this body enthusiastically endorses "NEA's Read Across America" and recommits our community to engage in programs and activities to make America's children the best readers in the world.

C. Approval of a minor amendment to the interlocal agreement for school funding formula

BACKGROUND: The amendment, approved by the Board of Education, states that the agreement may only be terminated upon mutual consent of both boards (Paragraph 7). This provision previously provided that the Agreement could be terminated by either party on six months prior written notice.

ACTION: Consider whether to approve the amendment.

D. Approval of Notice of Settlement of construction claim

BACKGROUND: The County has settled a claim by the general contractor on the Pine Forest Recreation Center project, Ace Construction Company, for delay damages, in the amount of \$13,095.60. The additional compensation occurred because when the original electrical contractor abandoned the project, the delay in the surety company's getting a new electrical contractor on the job caused the sub-contractors to increase their prices to the general contractor. The project closed out with sufficient funds to cover the settlement cost.

E. Approval of PWC Utility Easement – Cedar Creek Business Center

BACKGROUND: This is a utility easement for PWC for installation of sanitary sewer lines in the Cedar Creek Business Center. All easement areas outside of street rights-of-way are 15 feet wide on both sides of the centerline of the proposed sanitary sewer main except for the 18-inch sewer outfall line from the East Fayetteville Outfall to the southern right-of-way of the proposed road which shall be 25 feet on both sides of the sewer line.

ACTION: Approve the utility easement.

F. Approval of participation in Groundwater Capacity Use Study

BACKGROUND: Cumberland County has an opportunity to be included in a Lumber River Council of Governments Multi-county Capacity Use Groundwater Study. Currently there is no groundwater monitoring well in Cumberland County and this study will involve installation of 1 or more such wells in our County. Several counties in this region have groundwater monitoring wells which have been monitored for 8-10 years with disturbing findings. In addition, this study has been approved by the Environmental Management Commission and the NC Division of Water Resources as a means to determine groundwater levels and actions necessary to protect groundwater.

ACTION: Authorize the County Manager to submit a letter of endorsement and a request that Cumberland County be included in this study.

G. Approval of declaration of surplus Cape Fear Valley Hospital System equipment and furnishings and authorization for disposal

BACKGROUND: The Hospital Board of Trustees has declared said equipment surplus and requested permission to dispose of it.

ACTION: Approve the equipment as surplus and authorize disposal through sale, scrapped or traded as deemed appropriate by the Hospital System.

H. Budget Revisions:

(1) Social Services:

- a. B03-298 – Amount: \$69,443 to budget for additional funding for energy assistance and crisis intervention programs. Funding Source – Federal
- b. DSS Other – B03-299 – Amount: \$2,632 to budget a NC Family Caregiver Support Grant. Funding Source – Grant

(2) Tax Administration: B03-300 – Amount: \$2,848 to appropriate fund balance to budget Tax Management Associates & Doyle Hartley Audits. Funding Source – Appropriated Fund Balance

- (3) Eastover Sanitary District: B03-290 – Amount: \$1,020 to appropriate fund balance to fund engineering services. Funding Source – Eastover Sanitary District Fund Balance Appropriated
- (4) Health – Bioterrorism: B03-287 – Amount: \$4,300 to budget for additional state funding received. Funding Source – State
- (5) Sheriff/General Government Other: B03-289&289A – Amount: \$160,000 to budget funds for the County’s “Annual Required Contribution” to the Law Enforcement Officers Special Separation Allowance System (LEO). Funding Source – Reallocation of Budgeted Expenditures
- (6) Mental Health:
 - a. Adult Periodic: B03-293 – Amount: \$9,900 to appropriate fund balance to replace the fire alarm control system at the Bradford Avenue facility. Funding Source – Mental Health Fund Balance Appropriated
 - b. Adult Outpatient: B03-292 – Amount: \$3,320 to use fees to fund a salary adjustment and other expenditures. Funding Source – Fees
 - c. Mental Health Case Management: B03-294 – Amount: \$103,349 to establish an Assertive Community Treatment Team to include six new positions. Funding Source – Federal & Fees
 - d. Mental Health Case Management: B03-295 – Amount: \$22,000 to appropriate fund balance to purchase a vehicle for case management service. Funding Source – Mental Health Fund Balance Appropriated.
 - e. Mental Health Department: B03-296 – Amount: \$21,000 to appropriate fund balance to replace the vehicle used by Administration. Funding Source – Mental Health Fund Balance Appropriated
- 7. Averagesboro Battlefield: B03-288 – Amount: \$33,154 to re-budget the NCDOT Transportation Enhancement Grant #TEA-21 for the repair and reinstallation of historic highway markers on the historic/scenic byway from Fayetteville through the Averagesboro Battlefield. Funding Source – State & Other
 - I. Report on reimbursement of the county’s water and sewer fund

Chairman Baggett noted that the Eastover Sanitary District has been completed and the District has delivered a check to the county in the amount of \$287,000 to repay the county for the seed money it provided to start the Sanitary District. This money will go back into the county’s water and sewer fund to be used for other projects.

REGULAR AGENDA

- 3. Presentation by Hank Debnam, Area Director, on the Area Mental Health Center’s Mental Health Reform/Local Business Plan

Hank Debnam, Denzie Lucas and Debbie Lucas reviewed the progress on the Area Mental Health Center’s Mental Health Reform/Local Business Plan. Cumberland County has requested and been approved as a Phase III, Local Management Entity (LME), which means it need to be fully operational by July 2007. The law mandates that consumers and family members have a

stronger voice in the design and delivery of mental health services funded with State or Medicaid monies. This new law changes the way mental health agencies do business; instead of being providers, they will be managers of the service. Each LME must submit a business plan to the Division of MH/DD/SAS for approval. The plan is an outline of how the Area Authority will move forward with full implementation of all aspects of mental health reform by July 1, 2007. Several sections of the Plan have already been submitted to the State for review. Additional sections are due April 1, 2003. The Area Board will approve the entire Plan at its meeting on March 5. The Plan will be submitted to the Board of Commissioners for approval on March 17, 2003. Debbie Jenkins noted the importance of assuring that no citizen "falls through the cracks" with this new law.

No action needed.

4. Consideration of County Policy Committee report and recommendation

BACKGROUND: The Policy Committee met on February 6, 2003 and looked at several options concerning the number of terms that may be served by citizens who serve on our boards/committees.

ACTION: The Committee recommends that the county not change its policy of allowing people to serve only two consecutive terms.

MOTION: Commissioner Council moved that the Board keep its current policy of allowing citizens to serve only two consecutive terms on a board/committee.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

5. Consideration of County Facilities Committee report and recommendation

BACKGROUND: The Facilities Committee met on February 11, 2003 and discussed the Animal Control Shelter and Gray's Creek Recreation Center projects.

The Animal Control Facility Shelter recommendation will be presented to the Board at the March 3rd meeting.

ACTION: The Facilities Committee recommends the following:

- Gray's Creek Recreation Center: That the Board of Commissioners approves the design development drawings for the project and authorizes the architect to proceed with construction documents.

MOTION: Commissioner Warren moved to follow the recommendation of the Facilities Committee.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

6. Nominations to Boards/Committees

A. Equalization and Review Board

BACKGROUND: The E&R Board will have the following vacant positions as of March 31st:

At-large position: David M. Dauria – Eligible for reappointment

At-large position: Frank L. Matthews – Not eligible for reappointment

Businessman position: William E. Holland – Not eligible for reappointment

Farmer Position: Sherrill W. Jernigan – Eligible for reappointment

Homebuilder Position: Ron Smith – Eligible for reappointment

Nominees:

At-large positions: David Dauria, Will Harrell and Jimmy Ragland

Businessman position: George Turner

Farmer position: Sherrill W. Jernigan

Homebuilder position: Ron Smith

B. Nursing Home Advisory Board (1 vacancy)

BACKGROUND: Robert Searle will complete his second term on this Board on February 28, 2003. Andrea Wright, Regional Ombudsman, requests that the Board consider appointing Mr. Seale to a third term. The Policy Committee reviewed its policy and recommends that we continue with our policy of limiting persons to serve only 2 consecutive terms.

This item was referred to the March 3rd meeting.

7. Appointments to Boards/Committees

A. Fort Bragg/Pope Air Force Base Regional Land Use Advisory Commission

BACKGROUND: Commissioner Billy King is currently the county's voting member on this Board. Since we now have a Planning Director, Commissioner King recommends that she, Nancy Roy, be appointed as the County's voting member. She served as Chairman of this Committee when she was the Planning Director in Moore County. Appointing Ms. Roy as our voting member will allow her to keep her status as Secretary of the Committee. Commissioner King will continue to attend the meetings as a Liaison.

ACTION: Appoint Nancy Roy to this Advisory Commission.

MOTION: Chairman Baggett moved to appoint Nancy Roy as the county's voting member of the Fort Bragg/Pope Air Force Base Regional Land Use Advisory Commission.

SECOND: Commissioner Council

VOTE: UNANIMOUS

B. Recreation Advisory Board (1 vacancy)

Nominees: Mrs. Hollis Freeman
Alton Locklear, Jr.

Voting: Hollis Freeman: Commissioners Edge, Council, Baggett, Warren & Blackwell
Alton Locklear, Jr.: Commissioner King

8. Closed Session – Litigation – pursuant to NCGS 143-318.11(a)(3) and an Attorney-Client matter (same statute)

MOTION: Commissioner King moved to go into Closed Session for the above two items.

SECOND: Commissioner Warren

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved to go back into Regular Session.

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner King moved to adjourn.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

MEETING ADJOURNED: 10:15PM