

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JUNE 16, 2003, 7:00PM
REGULAR/REZONING MEETING

PRESENT: Chairman Talmage S. Baggett, Jr.
Vice Chairman Jeannette Council
Commissioner J. Breeden Blackwell
Commissioner Kenneth S. Edge
Commissioner John T. Henley, Jr.
Commissioner Billy R. King
Commissioner Edward G. Melvin, Jr.
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Cliff Spiller, Asst. County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Mitzi Champion, Public Information Officer
Marsha Fogle, Clerk to the Board
Ann Hymes, Deputy Clerk to the Board

INVOCATION - Commissioner Ed Melvin

PLEDGE OF ALLEGIANCE – Brittany Melvin, 6th Grade, John Griffin Middle School

Special Presentation – Order of the Long Leaf Pine to Commissioner J. Breeden Blackwell
Presented to Dr. Blackwell by John Griffin Middle School

Chairman Baggett recognized the County Manager and Commissioners from Hoke County. In addition, he also recognized the City Manager from Raeford.

1. Public Hearings

- A. Fort Bragg / Pope Air Force Base Regional Land Use Study – Nancy Roy, Planning Director.

BACKGROUND: Notice of this Public Hearing was sent certified mail to the 36 property owners in the one-mile study area. In addition, the notice was provided to the Board of Realtors and the Homebuilders Association.

Nancy Roy, Planning & Inspections Director, reviewed some staff recommendations based on the process and discussion generated at the Planning Board public hearings. The Staff recommends that the recommendations of the Land Use Advisory Commission be referred to a legislative study commission that will consider the interaction of urbanization and the military missions from a state-wide perspective, that is, in the context of all the bases in our state. The Planning Staff believes there is substantial consensus on three global principles: First, that Ft. Bragg and Pope AFB's presence and mission are central to the identity, quality of life and economic vitality of our community. Second, that we as a community and as neighbors must maintain and enhance the bases' capability to continue to perform military preparedness missions. Third, we must find a careful and appropriate balance between property owners' interests and expectations and any legal or regulatory mandates. In addition, the Planning Staff offers these specific suggestions:

- View the one-mile study area around Ft. Bragg/Pope Air Force Base as an opportunity to develop a small area land use plan. The plan could propose a "military compatible district" with land set aside for urban density development, low density residential development as well as other uses compatible with nearby military activities;
- Target Critical and Important areas (identified in the JLUS) for Industry, Manufacturing and Warehousing uses compatible with military, training and airbase activities. The development could be clustered in campus-style settings to reserve areas of natural habitat while allowing high value uses as of right.

- Accommodate limited extension of water and sewer to service these targeted industries, and to provide orderly and rational expansion of utility service to areas beyond the one-mile study area.
- Minimize conflicts between military activities and residential development by limiting residential development to one dwelling unit per 10 acres in Critical and Important areas. (Current zoning allows one dwelling unit per 2 acres).
- Reaffirm the State's strong policy recognizing landowners' Right to Farm in unincorporated areas surrounding Ft. Bragg and Pope Air Force Base since agriculture, silvaculture and related activities to not pose threats to military training missions or dangers to the civilian population.
- Recognize that Federal funding will have to be some significant portion of the government funding made available for purchases of property from willing sellers for mitigation and conservation purposes.

ACTION: Consider adoption of the study goals in concept, specifically protecting the military mission, preserving economic benefits derived by local communities and appropriately balancing the interests and expectation of property owners, refer the recommendations in the context of a state-wide Legislative Study Commission review of the subject, and revisit the recommendations on the work of the Study Commission.

SPEAKERS:

- Betty McMillan – Sandhills Family Heritage. Ms. McMillan noted the property has been in their families for many years and they wish to be able to convey it to their grand children to use as they see fit. She noted that the property is less than ½ mile from Fort Bragg. In addition she told the Board that within a half mile of their property Fort Bragg will be building 1500 houses. She noted it unfair that their property be restricted.
- Tom Brooks, representing the McCormick Family Farm – Mr. Brooks noted these restrictions would greatly affect the value of the farm (1700 acres). He said he had been trying to negotiate with the Army to lease the property rights at a fair price with no success. He suggested that no legislative action be taken on this issue while the family is negotiating with the Army.
- Stuart Lewis – Lives within the one mile barrier. Fort Bragg has used his property for maneuvers. Opposed to restrictions.
- Tim Easteridge – opposed to restrictions
- Mary Jane Marshbanks – Believes the money issue should be worked out first to assure money is available to pay property owners for their property. If restrictions go on first, property values will decrease and there may be only one interest party in purchasing the property – the Department of Defense.
- Jim Dougherty – The purpose of the land use study was to protect the integrity of Fort Bragg. The environmental issues affect the ability of the military to do its mission. Similar plans have been proposed for other military installations in the state, but none of those plans have been as extensive as this plan.
- Jose Cardona –opposed to restrictions.
- Peter Campbell – Fish & Wildlife Biologist – The presence of the red cockaded woodpecker affects the ability of the military to do its mission. Once the woodpecker comes off of the endangered species list, the military will be able to better perform its mission. The properties surrounding Fort Bragg are “safe havens” for the woodpecker.

- Ralph Huff – President: Homebuilders Association. Concerned that funds will not be available to adequately compensate property owners.
- Stacy Weaver – representing Clark Trust (1250 acres): Mr. Weaver said that property owners who had not developed were being penalized. When restrictions are put in force property values will plummet. He asked the Board not to sanction the Study.
- William Moses – His property is adjacent to Ft. Bragg and McCain. Hoke County has already given a lot of land to Fort Bragg. Opposed to restrictions.
- Bill Cameron (County Commissioner – Hoke County): Noted that Hoke County did not endorse the Study. Suggested the counties get together as a group to discuss the matter, as opposed to taking separate actions. More strength in numbers.
- Pitt Dickey (local Attorney): Supports the Study. Concerned that if Ft. Bragg can't train and complete its mission, it will move somewhere else.
- Joseph Tolley – lives less than ½ mile from Ft. Bragg. Suggested that if you don't live out there, don't vote.
- Bob Bell – Concerned that decisions are being made based on fear. Does not believe Ft. Bragg is going anywhere. Also concerned that federal funding will not be enough to go around.
- Colonel Addison (Tad) Davis, Garrison Commander, Ft. Bragg: Noted this is just the first step in a long process. He said there will be sacrifices that will have to be made. Need to think about what's best for us as a community.

PUBLIC HEARING CLOSED.

MOTION: Commissioner Blackwell moved that the Board accept the study in concept and refer the specific recommendations to a statewide legislative study commission, and that the Board revisit the recommendations after the study commission concludes its review.

SECOND: Commissioner King

DISCUSSION: Commissioner Blackwell said that this issue requires further review and study and if this motion passes there will be more time to address concerns. He said he was not comfortable that the state and federal governments would actually provide money that would be necessary to reimburse property owners who may lose their property. Commissioner King noted the value of Fort Bragg and Pope Air Force Base to this community. Commissioner Henley said he may have some better wording for the motion.

Commissioner Blackwell withdrew his motion.

MOTION: Commissioner Henley moved that the Board recognize the importance of protecting the military mission, preserving the economic benefits derived by local communities, and appropriately balancing the interests and expectations of property owners, and that the Board refer the specific recommendations for consideration in the context of a state-wide Legislative Study Commission review of the subject and that the Board revisit the recommendations based on the work of the Legislative Commission.

SECOND: Commissioner Blackwell

DISCUSSION: Commissioner Edge said he was not comfortable with the specific recommendations going to the study commission, as he feared it would appear that the Board of Commissioners endorses the recommendations. He noted the Legislature can appoint a Study Commission with or without our approval. He said he could not support the motion. Commissioner Melvin noted his concern was for “just” compensation for those owners who would lose their property and their rights to use their property. He said he is not sure what “just” compensation is. Commissioner Council suggested the Board just send recommendations 1,2,3,5,&6 it is comfortable with them.

SUSTITUTE

MOTION: Commissioner Blackwell moved to TABLE the issue.

SECOND: Chairman Baggett

VOTE: FAVOR: Commissioners Blackwell, Baggett, Edge, Melvin, Henley
OPPOSED: Commissioners Council and King

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:

MOTION: Commissioner King moved to follow the Planning Board recommendations on Cases B, C, D, H, & I.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- B. P03-43. The rezoning of 1.87 acres from R6A to C(P), or a more restrictive zoning district, at 3840 Legion Road, owned by James C. and Catherine Melvin.

The Planning Board recommends approval of C(P).

- C. Case P03-45. The rezoning of 1.50 acres from HSP to C3, or a more restrictive zoning district, at 2527 Gillespie Street, owned by Billy R. and Catherine W. Parker.

The Planning Board recommends approval of C1. (The petitioner is satisfied with C1).

- D. Case P03-48. The rezoning of 1.30 acres from RR to R10, or a more restrictive zoning district, at 1461 Ferndell Drive, owned by Larry Stoafer and Gillis Development Corp.

The Planning Board recommends R10.

Conditional Use Overlay

- E. Case P03-40. A Conditional Use Overlay District and Permit to allow an office for a trucking business and parking of trucks on .95 acres in an R6A District, at 4646 South Main Street, Hope Mills, NC owned by James E. and Ester A. Clark.

The packet material was introduced into the record.

The Planning Board recommends approval of the Overlay District and Permit with the following conditions:

- Hours of operation: Monday-Friday, 10:00AM to 5:00PM
- Employees – six
- Trucks kept on site – three
- Lighting in rear
- Employees drive trucks home; do not park on site.

MOTION: Commissioner King moved that the Board of Commissioners finds that this conditional use district overlay application is reasonable, neither arbitrary or unduly discriminatory, and in the public interest, and that it be approved.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

MOTION: Commissioner King moved that the Board of Commissioners finds that this conditional use district overlay permit application, if completed as proposed and with the above noted 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, and that it be approved.

SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

- F. Case P03-42. A Conditional Use Overlay District and Permit to allow a Bingo Parlor on 2.33 acres in a C1 District at 500 North Reilly Road, owned by Jose and Juana Prieto.

The packet material was entered into the record.

The Planning Board recommends approval of the Overlay District and Permit with the following conditions:

- Hours of operation: Monday & Wednesday, 6:00PM – 11:00PM
- Employees – six
- Signage – in accordance with Section 9.4 of the Zoning Ordinance

MOTION: Commissioner Edge moved that the Board of Commissioners finds that this conditional use district overlay application is reasonable, neither arbitrary or unduly discriminatory, and in the public interest, and that it be approved.

SECOND: Commissioner Henley
VOTE: UNANIMOUS

MOTION: Commissioner Edge moved that the Board of Commissioners finds that this conditional use district overlay permit application, if completed as proposed and with the above noted 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, and that it be approved.

SECOND: Commissioner King
VOTE: UNANIMOUS

- G. Case P03-49. Revision of a Conditional Use Overlay Permit to increase the size of a Statuary Business, to add a shop for the Statuary Business and to allow lawn and garden sales on 2.03 acres, in an R6A District, on the southwest side of South Main Street, west of I-95 Business, owned by Ralph and Carol Crawford.

The packet material was entered into the record.

The Planning Board recommends approval of the revision of the Permit as noted above.

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

SECOND: Commissioner Melvin
VOTE: UNANIMOUS

Amendments to Cumberland County Zoning Ordinance

- H. Case 03-22. Revision and Amendments to the Cumberland County Code of Ordinances, Section 7.23, “Fences and Walls.”

BACKGROUND: This amendment will allow many existing con-conforming fences to become conforming without compromising the intent of the Section.

The Planning Board recommends approval of the revision and amendments.

- I. Case P03-44. Revision and Amendments to the Cumberland County Code of Ordinances, Appendix A, Section 7.27, "Buffer Requirements."

BACKGROUND: This amendment will stipulate that all uses other than single family residential should be buffered from commercial development.

1. Consent Items

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

SECOND: Commissioner King

VOTE: UNANIMOUS (Note: Commissioner Melvin left the room briefly and was not present for this vote)

- A. Approval of minutes for the June 2, 2003 regular meeting and the following Special Budget Sessions on May 27, 2003 and May 29, 2003 and the Public Hearing on June 9, 2003.

ACTION: Approve

- B. Approval of Declaration of Surplus Cape Fear Valley Health Systems Equipment and Furnishings and Authorization for Disposition.

BACKGROUND: On May 28, 2003, the Hospital Board of Trustees declared these items surplus and requested instruction as to disposition. (Attachment A to these Minutes)

ACTION: Declare surplus and authorize disposition through sale, scrapped or traded as deemed appropriate by hospital management.

- C. Approval of Renewal of Lease and Franchise Agreement for Concession Services at the County Parks of E. E. Miller, E. Melvin Honeycutt and Ed. V. Baldwin Elementary Schools (2nd Reading).

ACTION: Approve Second Reading

- D. Approval of Renewal of Lease and Franchise Agreement for Cumberland County Mental Health Center's Roxie Avenue Center (2nd Reading).

ACTION: Approve Second Reading

- E. Air Quality Program Update.

BACKGROUND: The proposed strategies to improve air quality in Cumberland County will be forwarded to the EPA on behalf of the County and all of our municipalities. Nancy Roy, Chair of the Technical Committee, and George Breece, Chair of the Stakeholders Committee are working to prioritize both short term and long term strategies and make tentative implementation plans. They will keep the Board advised.

- F. Budget Revisions:

ACTION: Approve

- (1) General Government Other

Revision in the amount of \$15,605 to establish budget and to contract with Communicare, Inc. to administer the Juvenile Accountability Incentive

Block Grant program for the City of Fayetteville and Cumberland County.
(B03-467) **Funding Source – State, City of Fayetteville, and Appropriated Fund Balance**

(2) Health

- a. WIC – Revision in the amount of \$24,000 to reallocate budgeted revenues to align state and county budgets. (B03-458) **Funding Source – Reallocation of Budgeted Revenues**
- b. Administration – Revision in the amount of \$1,000 to decrease budgeted revenues and expenditures in order to align state and county budgets. (B03-465) **Funding Source – State**
- c. Revisions in the net amount of \$146,000 to reallocate budgeted expenditures from several Health Department organizations into the Jail Health Program in order to fund anticipated expenditures for fiscal year 2003. (B03-466 through B03-466G) **Funding Source – Reallocation of Budgeted Expenditures**

(3) Social Services

- a. Revision in the amount of \$6,667 to recognize NC Energy Program additional funding. (B03-460) **Funding Source – Federal**
- b. Revision in the amount of \$200,000 to recognize additional Child Care funding. (B03-468) **Funding Source – State and Federal**

(4) Mental Health

- a. Adult Homeless – Revision in the amount of \$5,625 to budget additional federal funds for general assistance to homeless adults, and other operating expenses. (B03-439) **Funding Source – Federal**
- b. Homeless Child – Revision in the amount of \$5,625 to budget additional Federal funds for homeless child services and other operating expenses. (B03-440) **Funding Source – Federal**
- c. Spainhour – Revision in the amount of \$3,434 to appropriate Mental Health Fund Balance to install automatic door mechanism for the handicapped. (B03-441) **Funding Source – Mental Health Fund Balance Appropriated**
- d. Medicaid Contracts – Revision in the amount of \$200,000 to budget additional Medicaid fees to provide Medicaid services through contracted services. (B03-442) **Funding Source – Fees**
- e. Partial Hospitalization – Revision in the amount of \$13,000 to appropriate Mental Health Fund Balance to increase the Fayetteville Area System of Transit contract for transport of clients. (B03-443) **Funding Source – Mental Health Fund Balance Appropriated**
- f. Regional Coordinating Entity – Treatment for Alternative for Street Crime – Revision in the amount of \$64,408 to budget additional funding from the State to expand the Treatment for Alternative for Street Crime program in Cumberland and two other counties and to establish three new positions (Substance Abuse Counselor II, Substance Abuse Program Supervisor, and Office Assistant II). (B03-444) **Funding Source – State**

- g. Homeless Child – Revision in the amount of \$671 to budget a salary increase due to the Human Services Clinical Counselor going from a trainee position to fully qualified. (B03-445) **Funding Source – State**
- h. Adult Periodic – Revision in the net amount of \$3,515 to budget NC Emergency Services Funds for contracted services and to reconcile state funds. (B03-446) **Funding Source – State**
- i. Adult Contracts – Revision in the amount of \$3,515 to budget NC Emergency Services Funds for the Rape Crisis Center. (B03-447) **Funding Source – State**
- j. Spainhour – Revision in the amount of \$5,100 to budget for additional food and supply expenses due to menus required in the Child Care Food Program. (B03-448) **Funding Source – Fees**
- k. Willie M. Administration – Revision in the amount of \$543,565 to reconcile the county and state budget due to the re-allocation of state funding. (B03-449) **Funding Source – State**
- l. Adult Periodic – Revision in the amount of \$34,400 to appropriate Mental Health Fund Balance to renovate the first floor wing at 109 Bradford to implement state plan for access to services. (B03-450) **Funding Source – Mental Health Fund Balance Appropriated**
- m. Winding Creek – Revision in the amount of \$7,949 to appropriate Mental Health Fund Balance to install a video security system at Winding Creek. (B03-451) **Funding Source – Mental Health Fund Balance Appropriated**
- n. Family Preservation – Revision in the amount of \$32,582 to reallocate budgeted revenues due to new state funds and decrease in collectable fees. (B03-452) **Funding Source – State**
- o. Case Management – Revision in the amount of \$23,994 to budget additional state funding and to create six new positions for a second Assertive Community Treatment Team. (B03-453) **Funding Source – State**
- p. Adult Community Services – Revision in the amount of \$77,533 to budget additional state funds to contract for a Geropsychiatry Team, crisis assistance for clients, guardianship and other adult long term care (B03-454) **Funding Source – State**
- q. Partial Hospitalization – Revision in the amount of \$14,658 to budget additional state funds to add two Rehabilitation Therapy Technician positions, purchase PC's and supplies, and contract for client transport. (B03-455) **Funding Source – State**

(5) Detention Facility

Revision in the amount of \$155,000 to reallocate budgeted expenditures from General Government to fund utility expenditures in the new Detention Facility. (B03-470) **Funding Source – Reallocation of Budgeted Expenditures**

(6) Rural Operating Assistance Program (ROAP)/General Government Other

Revision in the total amount of \$7,471 to transfer funds from General Government (4,971) and to recognize interest income (2,500) to fund

FAST transportation expenditures. (B03-469 and B03-469A) **Funding Source – General Fund Balance Appropriated and Interest Income**

- (7) Detention Facility Capital Project, Winding Creek Project, General Government Other, Mental Health, and the Industrial Development Inducement Fund

Revisions to transfer Capital Project recaptured bond interest expense to the General and Mental Health Funds and to reallocate funds to the Industrial Inducement Fund for the Cedar Creek Business Center. (B03-459 through B03-459D) **Funding Source – Capital Project Funds**

Items of Business

Chairman Baggett inquired if the Board would add an item to the agenda: Appointment of the Chairman of the ABC Board.

MOTION: Commissioner Melvin moved to add the items.

SECOND: Commissioner Jeannette Council.

VOTE: FAVOR: Commissioners Council, Baggett, & Melvin

OPPOSED: Commissioners Henley, Edge, King & Blackwell

(Because the addition requires a unanimous vote, the item was not added to the agenda.)

2. Consideration of Designating Voting Delegate for the NACO Conference.

ACTION: Appoint a voting delegate and 1st alternate.

The Board appointed Commissioner Breeden Blackwell as the voting delegate and Commissioner Kenneth Edge as the 1st alternate.

3. Consideration of County Facilities Committee Report and Recommendation:

- A. Selection of Architect for Animal Control Shelter and Sheriff's Training Center.

BACKGROUND: The County Facilities Committee, at its meeting on June 10, 2003, voted to recommend that the Board of Commissioners award the architect contract to LSV Partnership.

ACTION: Award the contract to LSV Partnership.

MOTION: Commissioner Blackwell moved to award the contract to LSV Partnership.

SECOND: Commissioner King

VOTE: UNANIMOUS

- B. Cumberland County's Ten-Year Solid Waste Management Plan.

ACTION: Adopt the Resolution approving the County Solid Waste Plan three-year update.

RESOLUTION

WHEREAS, better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources and control the cost of solid waste management; and

WHEREAS, NCGS 130A-309.09A(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 10-year comprehensive solid waste plan.

NOW, THEREFORE, BE IT RESOLVED that the Cumberland County Board of Commissioners hereby approves the Cumberland County Comprehensive Solid Waste Management Plan three-year update.

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

5. Nominations to Boards and Committees

A. Workforce Development Board (4 Vacancies)

BACKGROUND: The following terms will expire in the next several months:

Leesa Jensen (Private Sector): eligible for reappointment.

W.G. McHenry (Private Sector): eligible for reappointment.

Dr. James Basnight (Education – FTCC) not eligible for reappointment. Dr. Edward Jackson, Assoc. VP for Curriculum Programs at FTCC has been recommended to fill the vacancy.

Cathy Johnson (Economic Development): not eligible for reappointment. William (Bill) Martin, Cumberland County Business Council, is recommended to fill the vacancy.

Nominees: Leesa Jensen (Private Sector) reappointment
W.G. McHenry (Private Sector) reappointment
Dr. Edward Jackson (Education, FTCC)
William (Bill) Martin (Economic Development)

6. Appointments to Boards and Committees

MOTION: Commissioner Blackwell moved to appoint the nominees in 6A-6E by acclamation.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Appointment of Deputy Clerk to the Board

Nominee: Ann Hymes

ACTION: Appoint

B. Civic Center Commission (1 Vacancy)

Nominee: Bill Tew

ACTION: Appoint

C. Joint Planning Board (1 Vacancy)

Nominee: Clifton McNeill, Jr.

ACTION: Appoint

D. Nursing Home Advisory Board (1 Vacancy)

Nominee: Teresa Johnson

ACTION: Appoint

E. Senior Citizens Advisory Board (1 Vacancy)

Nominee: Rhonda Batten (2 Year Term)

ACTION: Appoint

F. Stormwater Advisory Board (2 Vacancies)

Nominees: Don Blackwell Jessup (Reappointment)
Carlton Mercer (Reappointment)
Dohn Broadwell

VOTING: Don Blackwell Jessup – Unanimous
Carlton Mercer – Commissioners Council, Blackwell, King & Edge
Dohn Broadwell – Commissioners Henley, Baggett & Melvin

The Board reappointed Jessup and Mercer.

7. Closed Session: Personnel Matter Pursuant to NCGS 143-318.11(a)(6)

MOTION: Commissioner Blackwell moved to go into Closed Session for the above noted matter.
SECOND: Commissioner King
VOTE: UNANIMOUS

MOTION: Commissioner Melvin moved to go back into Regular Session.
SECOND: Commissioner Council
VOTE: UNANIMOUS

MEETING ADJOURNED: 10:10PM.

Clerk to the Board