

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MARCH 15, 2004, 7:00PM
REGULAR/REZONING MEETING

PRESENT: Chairman Jeannette M. Council
Vice Chairman John T. Henley, Jr.
Commissioner J. Breeden Blackwell
Commissioner Talmage S. Baggett, Jr. (via telephone)
Commissioner Kenneth S. Edge
Commissioner Billy R. King
Commissioner Edward G. Melvin, Jr.
James Martin, County Manager
Cliff Spiller, Asst. County Manager
Tom Lloyd, Deputy Planning/Inspections Director
Grainger Barrett, County Attorney
Marsha Fogle, Clerk to the Board

INVOCATION: Commissioner Billy R. King
PLEDGE: Girl Scout Cadet Troup 1524 – Hope Mills

RECOGNITION: Board/Committee Members: Mary T. Thomas, Cape Fear Valley Health System

Dogwood Festival Queens: Katie Elizabeth Mills, Kelly Day & Karmen Leigh Strickland

Fayetteville Academy Advance Placement Class: Evelyn Green, Roseann Jones, Katie Thomas

Cumberland County 250th Anniversary History Briefing:

Mayor Marshall Pitts, City of Fayetteville
Mayor C. Leo Kelly, Town of Linden
Mayor Deborah Tew, Town of Godwin
J. Lee Warren, Jr., Cumberland County Register of Deeds

1. Public Hearings

Rezoning – Uncontested Cases

MOTION: Commissioner Blackwell moved to follow the recommendation of the Planning Board in cases A&B.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- A. Case P04-14. The rezoning of an 88.83 acre portion of a 132.43 acre tract from RR to R10, or to a more restrictive zoning district, east and west of Hoke Loop Road, north of Raeford Road, owned by John A. Williams, Jr. et.al

The Planning Board recommends approval of R10

- B. Case P04-15. The rezoning of 38.0 acres from A1 to R40, or a more restricted zoning district at 2729 Chicken Foot Road, owned by Annie R. Canady

The Planning Board recommends approval of R40.

- C. Case P04-18. The rezoning of 5.18 acres from RR to R6, or to a more restrictive zoning district at 7315 Rockfish Road, owned by Irina Anderson

The Planning Board recommends approval of R6.

SPEAKERS:

Terry Spell – speaking for petitioner, Irina Anderson. Mr. Spell noted that this rezoning would allow 58-59 units. He also noted he was aware of opposition from the school system. Mr. Spell stated this rezoning should be approved because a similar rezoning was approved at the Grays Creek School.

Wilson Lacy, appearing on behalf of the school system – opposed to rezoning. This rezoning would add more children to the Jack Britt School system which is already overcrowded. In addition traffic congestion would be terrible, a condition that already exists at the school. Huts would have to be built or classrooms added to the structure in order to accommodate more children. He said the school system has no funds to do either.

Commissioner Kenneth Edge inquired if the school system would be interested in purchasing this property. Mr. Lacy indicated it would.

Commissioner King said he hoped something could be worked out that would be fair to the school and property owner.

James Martin, County Manager, said there needs to be a better comprehensive planning approach which would include representatives from the school system, utility company, NCDOT, builders and property owners.

Commissioner Henley noted that while the planning process needs to be better, the school system is also going to have to look at redistricting.

Commissioner Baggett noted that building is attractive in that area because the infrastructure is already there, funded in part by school system contributions.

Lewis Scheib – opposed to the zoning. Too much congestion already.

MOTION: Commissioner Henley moved to defer action on this case until the third Monday meeting in April.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

MOTION: Commissioner Henley moved that the Planning Board look at the way it is doing its Planning and include in the process representatives from the school system, PWC, NCDOT and developers at its meetings.

SECOND: Commissioner King

VOTE: UNANIMOUS

Conditional Use Overlay Cases

- D. Case P03-91. A Conditional Use Overlay District and Permit to allow a junk yard and open storage of equipment in an A1 District on 3.21 acres on the northeast side of Whitehead Road, north of NC Highway 24, owned by Zarko Johnson

Agenda packet will become a part of the record.

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

- no more than 20 cars are allowed on the site at one time, and no more than the existing equipment to be stored on the site;
- the building must be completed within 6 months (all permits must be obtained) or the building must be demolished within 30 days of the 6 month period;
- the buffer is to be in accordance with the site plan; and
- no commercial operations other than those allowed in the A1 District and specifically listed in the application shall be allowed.

Oath was administered to speakers:

SPEAKERS:

Zarko Johnson – petitioner. Mr. Johnson said he wants to complete the building. He said this operation should not affect the area.

John Fisher – Mr. Fisher was concerned this junkyard would affect the value of his property if/when he wanted to sell it.

MOTION: Commissioner Blackwell 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 King
VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board finds this conditional use district overlay permit application, if completed as proposed, and with the conditions as noted above, will not materially endanger the public health and safety, will not substantially injure the value of the adjoining or abutting property, will be 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 Ed Melvin
VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board of Commissioners finds that each of the conditional use district overlay applications in Cases E,F&G are reasonable, neither arbitrary nor unduly discriminatory and in the public interest and that they be approved.

SECOND: Commissioner Edge
VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board of Commissioners finds that each of these conditional use district overlay permit applications in Cases E,F&G, if completed as proposed and with the conditions as noted below, 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 they be approved.

SECOND: Commissioner Melvin
VOTE: UNANIMOUS

- E. Case P04-08. A Conditional Use Overlay District and Permit to allow automobile sales in an R40 District on 1.01 acres at 10725 Clayfork Hill Road, owned by William Jeffrey Simpson

The agenda packet will be made a part of the record.

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

- one sign not to exceed 10 square feet shall be permitted;
- no more than 18 vehicles are to be parked on the premises at one time;
- all lighting is to be directed inward;
- all vehicles parked on the site are to be licensed and operable.

- F. Case P04-09. A Conditional Use Overlay District and Permit to allow car sales, an office and a detail shop in an A1 District on 1.0 acre on the west side of Clayfork Hill Road, south of Beaver Dam Church Road, owned by William Jeffrey Simpson and Tony Derek Simpson

The agenda packet will be made a part of the record.

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

- no more than 28 vehicles are to be parked on the premises at one time;
- all lighting is to be directed inward;
- a sign is allowed that complies with DMV minimum size;
- no more than four employees are allowed to be employed at the business; and
- all vehicles parked on the site are to be licensed and operable.

- G. Case P04-17. A Conditional Use Overlay District and Permit to allow a nursery operation in the C1 and C3 Districts on .85 acres at 3610 Cumberland Road, owned by Gladys A Blanton

The Agenda packet will be made a part of the record.

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

- a buffer must be provided and maintained in accordance with Sections 7.27 and 10.2 of the county zoning ordinance.

Contested Case

- H. P04-05. The rezoning from .56 acres from RR to R10 or a more restrictive zoning district, at 2643 Lakeview Drive, owned by Rosina Newton

The Planning Board recommends denial of the rezoning request.

SPEAKERS:

Christa N. Engle, daughter of the petitioner. Ms. Engle noted the original structure was built as a storage unit and has since been made into a duplex. She indicated permits were secured. She said that while a portion of the building is in the flood plain it did not flood when the dam broke. She noted there are two septic tanks and a well serving the site.

Commissioner Edge inquired if they would be willing to bring the structure up to code. Ms. Engle indicated they would.

Vicki Murray – tenant in one of the duplexes. Has experienced no problems, no odors on the property and noted it did not flood when the dam broke. Supports the rezoning.

Wanda Rodeiquez – tenant in one of the duplexes. No problems in the duplex. Supports the rezoning.

Rosina Newton – owner of the property. Has owned the property since the 70's. She said there are no sewer problems. A new septic tank has been installed. She said the appropriate permits were secured when the buildings were constructed.

The County Attorney noted that the permits may have been secured when the buildings were built as storage units; however, it is not clear permits were secured when the buildings were converted to living quarters.

The County Attorney noted the concern that "spot" zoning would be an issue here if the Board approves the rezoning.

Ken Praschan – attorney for Ms. Newton. Mr. Praschan noted there have been no complaints on this property for 20 years. He said the Newton's would like an opportunity to bring the property up to code and correct the defects. He also noted the tax value of the property increased \$30,000 at the last revaluation. He asked the Board to approve the rezoning.

Dagmar Voss – lives next door to property. Good neighbor, no odor problems with the septic system. Supports the rezoning.

Tom Lloyd, Deputy Director of Planning/Inspections Department noted the property is in the flood plain and water/sewer is not available to the property.

MOTION: Commissioner Blackwell moved to follow the Planning Board recommendation and deny the rezoning request.

SECOND: Commissioner King

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

OPPOSED: Commissioner Melvin

Other Public Hearings

- I. Minimum House Case 1770-2003, Bobby D. Mullens, Lot behind 6159 Charles Avenue (5 mobile homes), Fayetteville, NC, Parcel ID 0520 57-3748

Affidavit of Housing Inspector’s Report

I, George R. Hatcher, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

PROPERTY OWNER: Bobby D. Mullens
PROPERTY ADDRESS: Lot behind 6159 Charles Avenue Fayetteville, NC (5 mobile homes)
TAX PARCEL ID: 0520 57 3748

SYNOPSIS: The property was inspected on 2/18/03. The property owners and parties of interest were legally served with Notice of Violations and were afforded a hearing on 2/18/03. Bobby Mullens 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 6/18/03. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. An appeal was filed. On July 22, 2003, House Board of Appeals granted a 60-day extension until 9/20/03. Upon my visit to the property on 3/4/04 no corrective action had been made to the structures. The structures are all presently vacant and unsecured. In their present state these structures constitute a fire, health and safety hazard. The estimated cost to repair each structure to a minimum standard for human habitation is \$20,000. The Assessor for Cumberland County has each individual structure presently valued at \$500. IT IS THE RECOMMENDATION OF THE INSPECTION DEPARTMENT THAT THE STRUCTURES BE DEMOLISHED AND THE DEBRIS REMOVED FROM THE PROPERTY.

SPEAKERS:

Oath Administered.

Bobby Mullens - Mr. Mullens said the trailers have been on the lot for 12 years. He said he has hired someone to come pull them off, but because of the wet conditions on the lot, it has been impossible for that to take place. He noted he just found out from the Minimum Housing Inspector he can have the structures demolished in place and disposed of at the landfill. He intends to do that.

MOTION: Commissioner Melvin moved that the Board adopt the order and report of the Minimum Housing Inspector as the true facts in this case and that the property owner be directed to remove or demolish the dwellings within 60 days, that the Inspector 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 that the Clerk be directed to incorporate the findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Blackwell

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

2. CONSENT AGENDA

- A. Approval of Minutes: February 17, 2004

ACTION: Approve

- B. Approval of Declaration of Surplus County Property and Authorization to accept Insurance Settlement

BACKGROUND:	Date of Accident:	February 11, 2004
	Vehicle:	1998 Ford Crown Vic
	VIN:	2FAFP71W4WX145561
	Fleet	FL8
	Mileage	84,791
	Department	Sheriff’s Office
	Settlement Offer	\$7,115
	Insurance Company	St. Paul

Note: This is a total loss settlement offer.

ACTION: Declare vehicle surplus, authorize the Risk Manager to accept the \$7,115 as settlement and allow St. Paul Insurance to take possession of the wrecked surplus vehicle.

- C. Approval of Ordinance Assessing Property for the Cost of Demolition

BACKGROUND:

Minimum Housing Case: 1777-2003
Property Owner: Providencia C. Diaz
Property Location: 2002 W. Brinkley Drive, Spring Lake, NC
Parcel ID: 0513 20 8357

ACTION: Adopt Ordinance (May be found in the Minimum Housing Ordinance Book).

- D. Approval of revisions to Housing Rehabilitation and Emergency Repair Program Policies

BACKGROUND: In an effort to be competitive and offer attractive programs to clients and lenders, the following changes are proposed to the Housing Rehabilitation and Emergency Repair Program policies:

Housing Rehabilitation Loan Program

Current requirement: Debt structure is based on three income level categories, 0-30% of area median, 31-50% of area median and 51-80% of area median.

Proposed Change: Combine the higher income categories resulting in only two categories of 0-30% and 31-80%. This would eliminate a straight amortized payment as previously required if income exceeds 51% of area median. Payments would now be based on actual repayment ability and that portion of the loan would be amortized. The remaining portion of the loan would be deferred and reevaluated every five years to determine if repayment can begin at that time.

Current Requirement: Refinance only if income exceeds 51%

Proposed Change: Include refinancing for borrowers whose income is over 31% as long as they are eligible for a fully amortized loan. CCCD's current interest rate must be at least 2% below the borrower's mortgage rate. Borrower may not cash out any equity.

Current Requirement: Partially amortized loan payments are based on net disposable income as determined by a household budget.

Proposed Change: CCCD will base repayment on a percentage of applicant's net disposable income. Borrowers will be required to pay the greater of \$25 per month or 60% of net disposable income; however, payments may not exceed 30% of the borrower's total gross monthly income less 1/12 of property taxes and insurance.

Emergency Repair Grant Program

Current Requirement: Current guidelines require that applicants remove any judgments of record against the property.

Proposed Change: Eliminate eligibility requirement to remove judgments against property unless the judgment holder is the County or poses an obvious threat of executing the judgment. Since this is a grant program there is no requirement to repay the funds and credit is not an issue.

ACTION: Approve above changes

- E. Approval of FY 2005 Application for Continuation of Implementation Funding for the Day Reporting Center of the Criminal Justice System Support Unit

BACKGROUND: Application Amount: \$222,277.00.

ACTION: Approve Application

- F. Approval of County Finance Committee Report & Recommendation
(1) Increase in Fixed Assets Capitalization Threshold

BACKGROUND: The current fixed asset policy requires that all equipment with a useful life that extends beyond one year and has an original unit cost of \$2,500 or more be identified and included in the fixed asset accounting system.

ACTION: Approve the revised fixed asset policy which includes an increase from \$2,500 to \$5,000 to be implemented with the June 30, 2004 audit.

G. Approval of County Policy Committee Report & Recommendations

- (1) Revision of Cumberland County Code Chapter 7, Article V, Ambulances

BACKGROUND: The County Code requires that private ambulance services operate under a franchise from the Board of Commissioners. The current ordinance contains many obsolete provisions or references. The proposed revision would substitute for the current article in its entirety. The revisions delete obsolete references and provisions specifically notes that ambulance services owned or operated by a public entity do not require a franchise, provide for applications to be submitted to the County Manager but be referred to Cape Fear Valley Hospital System's EMS Director for evaluation, streamline the Board of Commissioners' consideration of applications, raises required insurance coverage from \$500,000 liability coverage to \$5 million liability coverage, and provide for the County Manager to request that the CFVHS EMS Director inspect franchisee's equipment and ambulances when required by the Ordinance.

ACTION: Approve new ordinance (Ordinance may be found in the County Ordinance Book.

- (2) Affordable Housing Program Guidelines

BACKGROUND: The Policy Committee met on March 4 and moved to recommend to the Board of Commissioners adoption of the draft Affordable Housing Program Guidelines. The proposed request for proposals process and supplement guidelines and application for the affordable housing program were developed as a result of the increased competition among affordable housing service providers. The RFP process is believed to be the best mechanism to ensure that all interested parties are made aware of funding opportunities through our community development programs. This type of process also enhances the County's effort in leveraging its entitlement dollars to provide quality affordable housing.

ACTION: Adopt

H. Budget Revisions

- (1) Public Buildings Janitorial/General Government – Revision in the amount of \$18,137 to reallocate expenditures to replenish custodial supplies and provide funds for equipment and vehicle maintenance (B04-361) Funding Source – Reallocation of Budgeted Expenditures
- (2) Animal Control – Revisions in the amount of \$29,572 to recognize additional fees earned and to increase operating expenditures and to replace a vehicle (B04-362) Funding Source – Fees
- (3) Law Enforcement Training Facility – Revision in the amount of \$2,180,000 to move budgeted revenue and expenditures from Fund 006 (Animal Control Capital Project Fund) to establish a separate Fund to facilitate accounting and record keeping for the new Law Enforcement Training Facility (B04-363, B04-363A and B04-363B (Funding Source – Reallocation of Budgeted Expenditures)
- (4) Local School Bond Projects – Revision in the amount of \$375,906 to recognize unbudgeted prior year revenue (B04-364) Funding Source – Interest & Contractor Sales Tax
- (5) Planning and Inspections – Revision in the amount of \$1,126 to reallocate expenditures to adjust salaries for higher certification level earned (B04-367) Funding Source – Reallocation of budgeted Expenditures
- (6) Health
 - a. Immunization Clinic – Revision in the amount of \$2,259

to budget State funds for the Immunization Clinic (B04-366) Funding Source – State

- b. Dental Clinic – Revision in the amount of \$2,450 to reallocate budgeted expenditures to fund salary increase for two positions (B04-368) Funding Source – Reallocated Budgeted Expenditures
- (7) School C.O. Category I/Category II/ Category III – Revisions in the total amount of \$2,046,100 to appropriate fund balance to rebudget unexpended capital outlay funds from the prior fiscal year as approved by the Cumberland County Board of Education on February 10, 2004 (B04-369, B04-369A & B04-369B) Funding Source – School C.O. Fund Balance
- (8) Sheriff
 - a. Revision: Amount: \$6,321 to recognize revenue for support provided to the Town of Kitty Hawk during Hurricane Isabel and revenue from the Sheriff's Auction of Found Property (B04-370) Funding Source – Miscellaneous
 - b. Revision in the amount of \$5,000 to recognize additional concealed weapon fees (B04-381) Funding Source – Fees
 - c. Revision in the amount of \$18,072 to recognize insurance settlements to purchase replacement vehicle (B04-384) Funding Source – Insurance
- (9) Social Services – Revision in the amount of \$227,696 to increase revenue and expenditures to recognize additional state funding received (B04-372) Funding Source – State
- (10) Emergency Services Grants – Revision in the amount of \$932,533 to budget Homeland Security Grant Part II (B04-376) Funding Source – Federal Grant
- (11) WIA Dislocated Worker Program – Revision in the amount of \$100,000 to budget for a contract with the State Employment Security Commission for On-The-Job-Training placement of referred dislocated workers (B04-379) Funding Source – State
- (12) Mental Health
 - a. Developmental Disabilities/Spainhour – Revision in the amount of \$15,000 to transfer funds from Developmental Disabilities to Spainhour to fund temporary workers while employees are on military leave (B04-382 & B04-382A) Funding Source – Reallocated Budgeted Expenditures and Revenues
 - b. Adult Community Services – Revision in the amount of \$48,888 to budget additional State funds for general assistance to patients released from State Hospitals (B04-383) Funding Source – State
- (13) Legal/General Government Other – Revision in the amount of \$16,319 to reallocate expenditures to implement a Legal Action Workflow System in the Legal Department (B04-385) Funding Source – Reallocated Budgeted Expenditures

REGULAR AGENDA

- (3) Consideration of County Facilities Committee Report & Recommendation

BACKGROUND: Walter Vick, Architect, presented the overall building programs, conceptual building plans and master site plan for the Animal Control Center/Sheriff's Training Center Project. The gross area of the Sheriff's Training Center is about

19,360 square feet and a gross area of the Animal Control Center is about 26,240 square feet.

ACTION: Approve the building programs, conceptual building plans and master site plan; authorize staff to proceed with the design development phase of the project & authorize staff to negotiate the architectural fees for the balance of the design and construction management phases of the project on the building sizes in the approved conceptual building plans.

MOTION: Commissioner Blackwell moved to approve.

SECOND: Commissioner Edge

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

(4) Nominations to Boards/Committees

A. Board of Adjustment

BACKGROUND: Mr. J. Norman Moore, Jr. is deceased. Nominate to fill the vacancy.

Nominee: Johnny Lee Council

B. Criminal Justice Partnership Advisory Board (1 vacancy)

BACKGROUND: Judge Gregory Weeks can no longer serve on this Board.

ACTION: Nominate to fill the vacancy.

Nominee: Jack A. Thompson, Superior Court Judge

C. Library Board of Trustees

BACKGROUND: Dr. Liliana Wendorff resigned from the Board effective 1/13/04.

ACTION: Nominate to fill term.

Nominee: Robbin M. Tatum

D. Tourism Development Authority (2 vacancies)

BACKGROUND: The terms of Katherine Keefe Jensen and Cameron Stout, Jr. will expire March 31, 2004. They are both eligible for reappointment and would like to serve another term.

Nominees: Katherine Keefe Jensen
Cameron Stout, Jr.

In addition, the term of Billy Wellons as Chairman will expire March 31, 2004.

The Board voted unanimously to reappoint Billy Wellons Chairman of the TDA.

(5) Appointments to Boards/Committees

MOTION: Commissioner Blackwell moved to appoint the nominees to the Boards/Committees noted below.

SECOND: Commissioner Henley

VOTE: **UNANIMOUS**

A. Adult Care Home Community Advisory Committee (3 vacancies)

Nominees: Brenda Matthews
Robert Searle
Patricia Paul

B. Storm Water Advisory Board (1 vacancy)

Nominee: Joint Appointee: Dohn Broadwell, Jr.

MOTION: Commissioner Blackwell moved to recess the Commissioners' meeting.
SECOND: Commissioner King
VOTE: UNANIMOUS

Note: The Board of Commissioners convened as the Kelly Hills Slocomb Road Water & Sewer District Board. Minutes for this meeting may be found in the Water and Sewer District Minute Book.

Chairman Council called the Board of Commissioners back into session.

(6) CLOSED SESSION

A. Attorney-Client Privilege Matter(s) pursuant to NCGS 143-318.11(a)(3)

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

MOTION: Commissioner Blackwell moved to go into Closed Session for the above noted matters (A&B)
SECOND: Commissioner King
VOTE: UNANIMOUS

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

MOTION: Commissioner Henley moved to appoint Robert L. "Bobby" Howard, Director of the Solid Waste Management Department at a salary of \$55,000 (Grade 76), per annum, effective immediately.
SECOND: Commissioner King
VOTE: UNANIMOUS

MEETING ADJOURNED: 10:05PM.

Clerk to the Board