

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
OCTOBER 18, 2004, 7:00PM
REGULAR/REZONING MEETING

PRESENT: Jeannette M. Council, Chair

John T. Henley, Vice Chair

Commissioner Talmage S. Baggett

Commissioner J. Breeden Blackwell

Commissioner Kenneth S. Edge

Commissioner Billy R. King

Commissioner Edward G. Melvin

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, Deputy Director, Planning/Inspections

Marsha Fogle, Clerk to the Board

Ann Hymes, Deputy Clerk to the Board

Sara VanderClute, Public Information Officer

INVOCATION - Commissioner Breeden Blackwell

PLEDGE OF ALLEGIANCE – Will Davis – 6th Grade – Grays Creek Middle School

Recognition of Retired County Employees: Doris Depperman – Mental Health Authority

Rosa Brown – Mental Health Authority

Margaret Olney – Mental Health Department

Recognition of Outgoing Board Members:

Barbara Leach – Mid-Carolina Aging Advisory Committee

Wally Ainsworth – Cumberland County Emergency Planning Committee

Certificate of Recognition: Claire Yvette White, President of the North Carolina Congress of Parents and Teachers Association, NC PTA)

Note: Ms. White gave each commissioner a Honorary Life Membership in the NC PTA.

Introduction: Robert Hines, President and Chief Professional Officer, Cumberland County United Way

Addition to Agenda: Adoption of a Proclamation proclaiming November "National Family Literacy Month" (Item 2K, Consent Agenda)

1. Public Hearings

Uncontested Cases

Rezoning

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 Planning Board recommendations on Cases A,B,C,G & H.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

A. Case P04-58. The rezoning of four parcels totaling 1.30 acres from R6A to C(P), or a more restrictive zoning district, on the west side of Deaver Circle, south of Rockfish Road, submitted by Robert M. Bennett.

The Planning Board recommends approval of C(P).

B. Case P04-61. The rezoning of 6.02 acres from A1 to R40A, or a more restrictive zoning district, at 592 Magnolia Church Road, owned by Dorothy L. Spears.

The Planning Board recommends approval of R40A.

C. Case P04-62. The rezoning of .31 acres from C(P) to R6A, or a more restrictive zoning district, at 5000 Cumberland Road, owned by Hollis L. Ludlum.

The Planning Board recommends approval of R6A.

Conditional Use Overlay

D. Case P04-36. The rezoning of 2.10 acres from M(P) to RR/CU and a Conditional Use Overlay District and Permit to enforce compliance with the zoning ordinance, at 1440 Kingstown Court, submitted by Tommy L. Davis.

Mr. Lloyd asked that the agenda information be made part of the record.

The Planning Board recommends approval of the Conditional Use Overlay District and permit with the following added conditions:

- the applicant must provide proof of legal access at the time of permit application;
- the site must be completely cleaned up in 90 days; and
- the site is to be developed in accordance with the proposal as shown on the site plan.

MOTION: Commissioner Baggett moved that the Board of Commissioners finds that this conditional use 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 Baggett moved that the Board of Commissioners finds that this conditional use district overlay permit application, if completed as proposed, and with the added conditions as noted above, 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; will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners, and that it be approved.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

Contested Cases

E. Case P04-54. The rezoning of four parcels totaling 149.01 acres from A1 to R10, or a more restrictive zoning district, south of Underwood Road, east of River Road, submitted by John Koenig.

The Planning Board recommends denial of R10 and approval of R40.

Speakers:

Richard Wiggins (representing John Koenig): Mr. Wiggins noted that the original request was for R10. He noted this is an emotional case. Mr. Wiggins said that the Eastover Plan calling for 1 acre lots was approved when there was no water and sewer available in the area. He noted that water and sewer is now in the area and the Plan should be reviewed. He said Mr. Koenig is planning to put in a lift station, sidewalks and curb and gutter. He said this would be an upscale development with homes starting at \$300,000. He said R30 would be appropriate for this area. Mr. Wiggins also noted adequate access from Middle Road and Underwood Road.

Jimmy Kizer, engineer: Mr. Kizer said the stormwater runoff amount would be the same when developed as it is now. He said the canal capacity would be addressed by putting in detention ponds to control the runoff. He suggested that more development would help as the Eastover District needs customers. He also noted that the developer would not be able to realize the complete yield on R30 or R40.

Charles Register, Chairman, Eastover Sanitary Board: Mr. Register said the concerns of the Eastover Sanitary Board are that the area be developed in an orderly well planned fashion. He noted the roads are not in place to handle this additional large volume of traffic. He noted the following road problems: 90-degree curve, railroad tracks, large trucks coming and going from Cargill.

Lawrence Buffaloe, Vice Chairman, Eastover Sanitary Board: Mr. Buffaloe noted the importance of preserving the rural character of the area. He inquired about assurances: will the residents in the area be notified of any proposed plan for

"density development" in the proposed zoning ordinance; will farms continue to be allowed after any rezoning in the farm program.

The County Attorney noted the land currently farmed will remain in the "land use value program". County zoning does not apply to any bona fide farm. He also noted the density development proposal has not yet been approved. If approved it will be a conditional use and a public hearing and notice to neighbors will be required.

Janet Idol – Concerned about school capacity if a subdivision of this size is allowed. Cape Fear High School is now over capacity.

Eronomy Muhammed – suggested the Board look at other counties who have been successful in their efforts for growth.

Sara Piland – Eastover Civic Club – Ms. Piland said the issue is the preservation of the community's character. Important to maintain the rural heritage. Keep farmlands. Asked the Board to deny the rezoning.

Denny Davis – keep zoning at least to one house per acre.

Tom Grubb – drainage a real problem and a project this large would make it worse. Noted the importance of coming up with a long range plan for drainage in the area.

John Koenig – petitioner. Mr. Koenig said he would like for the Board to approve R30. He said with the wetlands, power lines and canal it would be difficult for him to get a full yield. He said he is planning to put in sidewalks, curb and gutter and a lift station. He noted that no where in Fayetteville can you find this size lot with this size home.

The Chairman closed the public hearing.

Commissioner Baggett noted some concerns about this project: the land is low and flat with a clay base, causing serious stormwater runoff issues. He noted that the infrastructure is not in place to handle runoff problems that 110-120 new homes, driveways, sidewalks, etc. would cause. He also noted the petitioner could develop using zero lot line, which may very well increase the density of the development. He suggested the zoning should be left at A1.

Commissioner Henley said that just because we have water and sewer available does not mean we have to have high density development. He noted problems with the overcrowded schools. He suggested that a joint planning board with representation from the county and all municipalities would allow for better planning. He also suggested that the value of the property may be enhanced by not having high density in the area.

Commissioner King noted that in the past it was generally the policy of the Board to approve R10 and R20 if water and sewer were available. He said his concern is that the Board be fair.

Commissioner Edge said even though Eastover residents prefer leaving the property A1, a good compromise is R40, which residents said they could live with.

MOTION: Commissioner Edge moved to approve R40, the recommendation

of the Planning Board.

SECOND: Commissioner King

DISCUSSION: Commissioner Baggett said he thought it a little premature to consider R40 at this time.

SUBSTITUTE

MOTION: Commissioner Baggett moved to deny the rezoning request, leaving the property zoned A1.

SECOND: Chairman Council

DISCUSSION: Commissioner Henley said he thought R40 was a reasonable compromise, but needed further feedback from the community. Mr. Morgan Johnson, Vice Chair of the Eastover Sanitary Board, said that when the Eastover Plan was adopted in 1988-89, the Board went along with R40, even though it wanted A1. He noted air quality problems in the area and the importance of maintaining the rural character of the area. Commissioner Edge noted he was a little confused as he thought R40 was acceptable to the residents in the area. Morgan Johnson, Vice Chairman of the Eastover Sanitary District, explained residents might accept R40, but would prefer 2 acre lots. When asked to stand, citizens in the audience expressed their support of A1.

Commissioner Edge withdrew his motion (original motion).

VOTE ON

SUBSTITUTE

MOTION: FAVOR: Commissioners Council, Henley, Baggett, Blackwell, Edge and

Melvin.

OPPOSED: Commissioner King

F. Case P04-56. The rezoning of 1.27 acres from A1 to RR, or a more restrictive zoning district, at 1542 Clifton McNeil Road, owned by Gerald N. Minnich.

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

Speakers:

Gerald Minnich: Mr. Minnich asked the Board to approve R40. He wants to put another home on the lot adjacent to his home. He said there is enough land to do so.

Clifton McNeill – Asked the Board to leave the property zoned A1.

MOTION: Commissioner Baggett moved to approve R40.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

G. Case P04-64. The rezoning of three parcels totaling 64.65 acres from RR

to R10, or a more restrictive zoning district, on the south side of Snow Hill Road, west of Claude Lee Road, submitted by Crawford Design Company.

The Planning Board recommends approval of R10.

H. Case P04-65. The rezoning of 1.79 acres from A1 to R40 at 1333 Cypress Lakes Road, submitted by Robert M. Bennett.

The Planning Board recommends approval of R40.

Conditional Use Overlay

I. Case P03-91. Modification of Condition on a Permit for a previously approved 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.

The Planning Board recommends denial of the modification of the permit.

The oath was administered to all speakers.

Zarko Johnson – Mr. Johnson said he was unable to complete the work agreed to in the conditional use overlay permit which called for completion of his building within six months. He said he was unable to collect money owed him from Fort Bragg until August, making it impossible for him to afford to begin the work. He asked the Board to modify the permit to give him another six months to complete the project.

Russell McLaurin – supported Mr. Johnson's request for an extension, noting some difficulties encountered by the petitioner.

MOTION: Commissioner Melvin moved to approve the six month extension.

SECOND: Commissioner King

VOTE: UNANIMOUS

Other Public Hearings

J. Public Hearing On and Consideration of Approval of Bond Order Authorizing Additional General Obligation Refunding Bonds to Reduce Interest Expense and Approval of Resolution Authorizing Issuance of Refunding Bonds.

BACKGROUND: The Board of Commissioners has called a public hearing to consider a bond authorizing issuance of general obligation bonds to refund portions of the County's 2000 School Bonds in addition to portions of the County's 1994, 1995, and 1997 Community College Facilities, School and Library General Obligation Bonds to reduce the County's interest expense.

SPEAKERS: None

ACTION: Approve the Bond Order, the Resolution Authorizing Issuance of Refunding Bonds and authorize notice of publication of approval of the Bond Order and authorize the Finance Officer to proceed with the financing. (See attachment A to these Minutes)

MOTION: Commissioner Blackwell moved to approve the bond order, the resolution, publication of the bond order and authorization for the Finance Officer to proceed with the financing.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

2. Consent Items

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

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

- A. Approval of minutes for the September 20, 2004 regular meeting and special meeting with the Joint Planning Board, the September 30, 2004 Special meeting, the October 4, 2004 regular meeting and October 12, 2004 special meeting.

ACTION: Approve

- B. Approval of Work First Plan for the Department of Social Services.

ACTION: Approve

- C. Approval of Bid Award for Equipment Relating to the Department of Homeland Security Grant 2003 Part II.

BACKGROUND: The equipment will be paid from monies received from the Department of Homeland Security, 2003 Part II Grant. Forty-six vendors were given the opportunity to bid on these items. The lowest bidder was awarded the bid in all cases, except two:

Searchcam 2000 System was awarded to Search Systems. The low bidder did not bid on all of the items.

Stanley Hydraulic Breaching & Breaking Kit – award to Ditch Witch. The low bidder did not include all items, delivery, set up or training.

See Attachment A for list of bid awards.

- D. Approval of Recommendation of Lobbyist for the City of Fayetteville,

Cumberland County Business Council and Cumberland County.

BACKGROUND: On September 8, 2004, the County Manager, City Manager and CCBC President interviewed four highly-qualified firms with expertise in representing communities at the Federal level. While each firm offered advantages, the recommendation is to approve the Ferguson Group as the lobbyist for the City of Fayetteville, County of Cumberland and the Cumberland County Business Council.

- E. Approval of Authorizing Issuance of General Obligation School Bonds, Series 2004, for Classroom Additions through the County's Two-Thirds Net Debt Reduction Capacity. (Attachment B to the Minutes)

ACTION: Approve

- F. Approval of Engineering Firm and Contract for the Design, Bid and Oversight of the Windridge Special Assessment Water Project.

BACKGROUND: Letters of interest were received from the following firms for the above project:

Hobbs Upchurch & Associates, Southern Pines, NC
Jordan Tew & Associates, Dunn, NC
The Rose Group, Fayetteville, NC
Marziano & Minier, Asheboro, NC

ACTION: Award the contract to Marziano & Minier based on time and materials as outlined in the Short Form of Agreement not to exceed \$17,400, and approve associated budget revision (B05-132).

- G. Approval of Declaration of Surplus Vehicles and Authorization to Dispose of Same by Public Auction.

BACKGROUND: Cumberland County owns thirty automobiles/trucks that are surplus to its needs.

ACTION: Declare vehicles surplus (Attachment c to these Minutes), authorize the Assistant County Manager to dispose of at public auction which will be held on November 13, 2004, commencing at 10:00AM.

- H. Approval of a Proclamation from the Cumberland County School System Proclaiming November as "National Family Literacy Month" and Support of the Literacy Plus! Campaign for 2004-2005 School Year.

ACTION: Approve Proclamation

NATIONAL FAMILY LITERACY MONTH

WHEREAS, the goal of the Cumberland County Literacy Plus! Campaign is to implement strategies and activities that will support literacy efforts and student achievement through community support and resource development; and

WHEREAS, National Family Literacy month focuses on the importance of children and parents reading and learning together; and

WHEREAS, literacy has been defined as "the application of reading, writing, speaking, viewing and listening in a variety of settings that empowers the learner to think critically and independently"; and

WHEREAS, research has shown that reading achievement is linked to the number of high quality reading materials easily accessible to children and their teachers; and

WHEREAS, we believe that all members of the community should work together to raise awareness and resources to support literacy efforts and ensure that all school classrooms provide an environment conducive to learning and success; and

WHEREAS, literacy provides the foundation for learning that all children must have in order to lead happy, successful lives; and

WHEREAS, Cumberland County Schools is dedicated to moving the school system from "good to great" with the support of parents, community leaders, educators, policy-makers, business partners and volunteers.

NOW, THEREFORE, the Board of Commissioners recognizeS November as National Family Literacy Month and will support the Cumberland County School System's Literacy Plus! Campaign throughout the 2004-05 school year.

- I. Approval of a Proclamation Proclaiming October 20, 2004 as the "Day of National Concern for Cumberland County" and the week of October 24-31, 2004 as "Red Ribbon Week" in Cumberland County.

ACTION: Adopt Proclamation

J. Budget Revisions:

ACTION: Approve

(1) Health

- a. Environmental Health - Revision in the amount of

\$500 to budget state funds for a Restaurant Heart Health Survey Program. (B05-119) **Funding Source – State**

- b. Family Planning Clinic – Revision in the amount of \$28,292 to budget additional state funds. (B05-127) **Funding Source - State**

(2) Mental Health- Crisis Stabilization

Revision in the amount of \$29,000 to appropriate fund balance to replace furniture in the Crisis/Detoxification unit at Roxie Avenue. (B05-120) **Funding Source – Mental Health Fund Balance**

(3) Library

- a. Smart Start Read to Me - Revision in the amount of \$93 to appropriate fund balance to reimburse the state for unspent revenue received in FY2004. (B05-121) **Funding Source – Fund Balance Appropriated – Prior Year**

- b. Smart Start MotheRead - Revision in the amount of \$2,130 to appropriate fund balance to refund the state for unspent revenue received in FY2004. (B05-122) **Funding Source – Fund Balance Appropriated – Prior Year**

(4) 2004 School Bond Projects/County School Fund

Revision in the total amount of \$7,269,400 to budget General Obligation School Bond proceeds of \$5,075,000; to transfer \$2,194,400 of fund balance (sales tax) from the County School Fund to the 2004 School Bond Project Fund for additions at six elementary schools and to approve the associated Capital Project Ordinance. (B05-133 and B05-133A) **Funding Source – G.O. School Bond Proceeds and Fund Balance Appropriated (Sales Tax)**

(5) Sheriff

- a. Local Law Enforcement Block Grant- Revision in the amount of \$62,508 to recognize a \$56,257 Law Enforcement Block Grant and to appropriate fund balance in the amount of \$6,251 for local match. (B05-134) **Funding Source – Federal and County**

Fund Balance

- b. School Law Enforcement- Revision in the amount of \$43,949 to recognize revenue and expenditures for the Gang Resistance Education & Training (GREAT) grant. (B05-130) **Funding Source – Federal**

(6) Solid Waste Management- Administration

Revision in the amount of \$21,968 to re-establish an Assistant Weighmaster position that was deleted in the FY2003 budget process. (B05-135) **Funding Source – Solid Waste Fund Balance**

- K. Approval of a Proclamation proclaiming November “National Family Literacy Month” in Cumberland County.

BACKGROUND: The Cumberland County Board of Education recommended adoption of this Proclamation.

MOTION: Commissioner Edge moved to approve.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

REGULAR AGENDA

- 3. Presentation of County Attorney’s Response to Inquiry and Re-affirmation of County’s Support of Amendment One.

BACKGROUND: The County Attorney said that a commissioner had inquired if the County would have any legal liability for bonds under Amendment One if an industry in the project area supporting the bonds went bankrupt. The Attorney said the answer to that question is no. The incremental property taxes generated and collected in the project development area go into a special revenue fund dedicated and pledged to re-payment of the bonds. This special revenue fund is the security for re-payment of the bonds. So long as the special revenue fund generates sufficient revenues, the bondholders get paid. If sufficient funds are not generated, then a default would occur. In that case, unless the County has pledged additional revenues authorized by legislation as security for repayment of the bonds, the County has no further financial exposure.

ACTION: Reaffirm the Board of Commissioners’ support of Amendment One.

MOTION: Commissioner Blackwell moved to confirm the support.

SECOND: Commissioner King

VOTE: UNANIMOUS

4. Consideration of Recommendation to Rename Park Pavilion at Lake Rim Park.

BACKGROUND: The Fayetteville-Cumberland Parks and Recreation Advisory Board recommends that the Tar Heel Pavilion at Lake Rim Park be renamed to and in memory of M. David Varnadoe, III.

ACTION: Approve

MOTION: Commissioner Melvin moved to approve the renaming as recommended.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

5. Nominations to Boards and Committees

A. Human Relations Commission (2 Vacancies)

Nominees: Bobby Ervin
Olin Saunders
Zeandrew Farrow

B. Library Board of Trustees (2 Vacancies)

Nominees: Sylvia Ray
Robbin M. Tatum

6. Appointments to Boards and Committees

MOTION: Commissioner King moved to appoint the nominees in 6A-C.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

A. Adult Care Home Community Advisory Committee (2 Vacancies)

Nominees: Nathandra L. Hicks
Tracy Jones

B. Minimum Housing Appeals Board (1 Vacancy)

Nominee: Christopher Nicholas

C. Nursing Home Advisory Board (1 Vacancy)

Nominee: Robert Pringle

MOTION: Commissioner King moved to adjourn.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

Meeting Adjourned: 9:31PM.

Clerk to the Board