

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
NOVEMBER 7, 2005, 9:00AM
REGULAR MEETING

PRESENT: John T. Henley, Jr., Chairman
Billy R. King, Vice Chairman
Commissioner Talmage Baggett
Commissioner J. Breeden Blackwell
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Diane Wheatley
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager
Cliff Spiller, Asst. County Manager
Grainger Barrett, County Attorney
Marsha Fogle, Clerk
Ann Hymes, Deputy Clerk
Sara VanderClute, PIO

INVOCATION Commissioner Breeden Blackwell

Minister: Dr. Curtis T. Christian, Associate Pastor, Highland Presbyterian Church

Pledge of Allegiance

Recognition of Outgoing Board Member:

Ruth-Marie Rosser, Nursing Home Advisory Board

1. Consent Agenda

Commissioner Baggett asked that Item 1B be pulled from the Consent Agenda and discussed separately.

MOTION: Commissioner Blackwell moved to follow staff recommendations on the items on the Consent Agenda, except Item 1B.

SECOND: Commissioner King

VOTE: UNANIMOUS

- A. Approval of minutes for the October 17, 2005 regular meeting and special Joint City/County meeting on October 25, 2005.

ACTION: Approve

- B. Approval of Bids for Eastover-Central Recreation Center Construction.

BACKGROUND: Bids were received for the Center on October 13, 2005. A total of 6 contractors submitted proposals. M&E Construction submitted a bid of \$1,966,292. The high bid was \$2,229,700 submitted by NC Monroe of Colfax, N.C. Hayes, Inc. of Fayetteville submitted the low bid but requested to be disqualified because of errors in calculation.

ACTION: Award the bid to M&E Construction in the amount of \$1,966,292. In addition, establish a 5% contingency in the amount of \$98,315 in case there are unforeseen expenses during construction. An appropriation of \$2,064,587 is requested from the County's recreation fund balance for the project. Also approve the attached budget revision (B06-185).

Commissioner Baggett expressed some concerns regarding the placement of the recreation center on the property. His concern is the footprint of the building cattycornered on a small parcel of land near the road. He suggested that perhaps we should take another look at the placement of the facility, since the Board has approved the purchase of 8 acres of land contiguous to the property that could perhaps provide better placement of the new center. Mr. Baggett noted that when the center was being planned the county had not yet purchased the additional land. It was noted the County has not yet closed on the land purchase. Mr. Robert Barefoot, Fayetteville Cumberland Parks and Recreation Department noted that the 8 acres would be used for nature trails and perhaps playgrounds, picnic areas, etc. He told the Board that the School System had input into the placement of the center

and this site works for them. Mr. Barefoot said the additional 8 acres of land is valuable as open space and he feels it can be used to the best benefit of the school and the county. Mr. Baggett said he feels that perhaps we may be rushing into this and that maybe we should take another look at the site to see if there is a better place to put the center. In response to a question, Mr. Barefoot noted that the 8 acres have not yet been master planned. It was determined that bids on this project would be good for 60 days (bids were opened October 13, 2005). Some issues that will have to be addressed if the center is moved to another location on the site is extension of water/sewer pipe and parking. Mr. Larry Philpott, Fayetteville Cumberland Parks and Recreation Department, said there are a number of things that can be done with the eight acres to enhance the entire site.

MOTION: Commissioner Baggett moved to table this item until the next commissioners' meeting (November 21, 2005).

DISCUSSION: Commissioner Council suggested that the Facilities Committee take a look at this issue at its meeting tomorrow. Commissioner King noted that it appears that the school system and the county have looked at the issue and agree that the initial placement of the center is the best way to go. Chairman Henley noted that the bid is good until December 13 giving the Board time to further review this matter. Commissioner Wheatley inquired if the County has closed on the purchase of the 8 acres and do we have to. The County Attorney stated that this issue is best addressed in Closed Session and suggested we could add an Attorney-Client matter to our Closed Session Agenda.

AMENDED

MOTION: Commissioner Baggett moved to refer this to the Facilities Committee meeting on November 8 and bring it back to the Board of Commissioners at its November 21, 2005 meeting. Note: The Facilities Committee meeting will start 30 minutes ahead of time (8:00AM) in order to take up this matter. An emergency meeting notice will go to the Sunshine List.

SECOND: Commissioner King

VOTE: UNANIMOUS

C. Approval of Bids for Landscaping and Irrigation for the Cedar Creek Business Center.

BACKGROUND: Informal bids were received on October 18, 2005 for installation of landscaping and irrigation along the entrance road at the Cedar Creek Business Center. One bid was received in the amount of \$102,985.25 from Charles Hughes Construction and Realty. In addition to the base bid, an alternate bid was taken to provide one year landscaping maintenance service. However, staff is not recommending the alternate bid be accepted. Funding for the project is from the Industrial Development Inducement Fund of which there is sufficient money for the project.

ACTION: Award the contract to Charles Hughes Construction and Realty in the amount of \$102,985.25.

C. Approval of Sale of Surplus Property to City of Fayetteville.

BACKGROUND: The City of Fayetteville wishes to purchase a tract of land previously declared surplus to the needs of the County which the County acquired in a 1995 tax foreclosure. The City will pay the unpaid taxes for which the County acquired the property at foreclosure in the amount of \$931.74.

ACTION: Approve the sale of surplus property tract #0427-91-6432 pursuant to GS 160A-274 to the City of Fayetteville for \$931.74 and authorize the Chairman to sign the deed conveying the property.

D. Approval of Health Department Delinquent Accounts and Referral to Contracted Collection Agency.

BACKGROUND: The Board of Health at its meeting on October 18, 2005 approved writing off \$75,127.49 in bad debts and turning them over to the contracted collection agency – Professional Recovery Consultants, Inc.

ACTION: Approve write-off of the bad debts and turn over to the collection agency.

- E. Approval of Declaration of Surplus County Property and Authorization to Accept Insurance Settlement.

BACKGROUND: Date of accident: 10/4/05
Vehicle: 1996 Chevrolet Tahoe
VIN: 1GNEC13RXXR102884
Mileage: 125,100
Department: Sheriff's Office
Settlement Offer: \$8,321.50
Insurance Company: Selective

ACTION: Declare the vehicle surplus, authorize the Risk Manager to accept the settlement as noted above and allow Selective to take possession of the vehicle.

- F. Approval of Redemption of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure.

BACKGROUND: On or about October 25, 2001 the County acquired by tax foreclosure sale property located at 1151 Durden Lane (1.00) acre owned by Clarence Casteel and Alice Mildred Casteel. The amount owed on the foreclosure judgment plus costs is \$3,100. Mr. Clarence Casteel who is living in the house and a former owner has offered to purchase the County's interest in such property and exercise his equity of redemption for \$3,100 and has deposited same with the County Finance Department. NCGS 105-376 AND 160A-267 authorize the Board to resell property acquired by tax foreclosure to the former owner or any person having an interest in the property for an amount not less than the costs associated with the foreclosure and subsequent resale.

ACTION: Accept the offer from Mr. Casteel to repurchase the property for \$3,100.

- G. Approval of Quitclaim Deed to Dohn Broadwell to Eliminate Double-Listing of Property.

BACKGROUND: Attorney Duane Gilliam has contacted the County on behalf of Dohn Broadwell to clear up title to conflicting chains of title to property in Rockfish Township. Mr. Broadwell bought 151 acres in 1981 from Grady Marsh and wife Ruby Marsh, and Raymond Scudder and wife Constance Scudder by deed recorded at Book 2824, Page 521, Cumberland County Registry. The tract is listed for tax purposes as Cumberland County PIN 0443-08-5533. This property had been acquired by the County in a 1947 tax foreclosure by deed recorded at Book 465, Page 194 and subsequently conveyed out in a chain of title down to Mr. Broadwell. Mr. Broadwell has paid taxes on all 151 acres since he acquired title in 1981. In a separate chain of title, the County acquired a 25 acre tract by commissioners' deed in a 1941 tax foreclosure. The County quitclaimed out 10.52 acres in 1991 under GS 105-376 to Alfred Gray and wife Charlotte Gray to eliminate a double listing of Mr. Gray's tract on the Cumberland County tax records. The remainder 12.48 tract is now shown as Cumberland County Pin 0443-09-38984. A detailed search has determined that the 12.48 acres still listed in the County's name is physically included "on the ground" in the 151 acres in Mr. Broadwell's name for which 151 acres Mr. Broadwell has paid taxes since 1981. In effect there has been a double listing of the 12.48 acres; however, Mr. Broadwell has paid taxes on the 12.48 acres in the County's name as part of the taxes on the 151 acres listed in this chain of title. During the period since 1981, Mr. Broadwell has maintained and controlled the 151 acres and the County has not exerted any control over the 12.48 acre portion. NCGS 105-376(c) allows a County, in the discretion of its governing board, to resell a tax foreclosure property to the former owner or any other person formerly having an interest in the property at private sale for an amount not less than the taxing unit's interest. This is the statute the County used to convey the other portion of this tract to Albert Gray in 1991 and eliminate double listing of that portion of the tract. In a highly technical view, there may be some uncertainty whether this statute applies here, since the double listing occurred through two separate chains of title and Mr. Broadwell, technically speaking, is not a "former owner" in the chain to the County in 1941. It is the opinion of the County Attorney that the intent of GS 105-376, the County's previous precedent, considerations of equity where Mr. Broadwell has in fact paid taxes on 12.48 acres of land listed in the County's name, and the Board of Commissioners' administrative authority to rectify double listings of property on the tax rolls, provide the Board of Commissioners authority to authorize quitclaiming any interest the County may or may not have in Cumberland County PIN 0443-09-3894

to Mr. Broadwell to eliminate the double listing and clear up title on the County's land records.

ACTION: Approve the quitclaim deed of 12.48 acres shown as Cumberland County PIN 0443-09-3894 to Dohn Broadwell to eliminate double-listing of property and authorize the Chairman to execute the deed.

H. Approval of Publication of Settlement Agreement.

BACKGROUND: The settlement of this Federal lawsuit, Norman v. Butler, has been fully accomplished. The agreement has been executed and the funds have been disbursed in the amount of \$13,000. A lawsuit was filed against the Sheriff (Earl Butler) and former Deputy Maxwell Taylor for alleged constitutional violations and stat law claims associated with the investigation of a shooting and carjacking that occurred on August 19, 1999. The claims were originally filed in the Superior Court in 2000, but were voluntarily dismissed by the Plaintiff when the Defendants moved for dismissal. The claims were refilled in February 2003 asserting all of the original claims, and the case was removed to Federal court. Although liability has been disputed from the beginning, Plaintiff offered on the eve of trial in August to settle for an amount of money that is well within the actual range of litigation costs. The Plaintiff agreed to settle for \$13,000. The cost associated with the trial, post trial motions and an appeal by one of the parties would probably easily exceed the settlement amount. Plaintiff and his counsel have signed the settlement agreement.

ACTION: Approve the settlement in the amount of \$13,000 in exchange for a full release of claims against the Sheriff and former Deputy Maxwell and Cumberland County.

I. Approval of Exercise of Option to Purchase, with Funds from the Parks and Recreation Fund 25.62 Acres Adjacent to Gray's Creek Middle School for a Planned Recreation Center.

BACKGROUND: The Board of Commissioners approved in 2001 an option to purchase, with funds from the Parks and Recreation Fund, 25.62 acres next to Gray's Creek Middle School for a planned recreation center. The option expires early in 2006 and the Consolidated Fayetteville Cumberland County Parks and Recreation department has requested that the property be purchased. The option price approved by the Board of Commissioners is \$10,000 an acre. The County Attorney is preparing to close the transaction.

ACTION: Exercise the option to purchase with funds from the Parks and Recreation Fund the 25.62 acres next to Gray's Creek Middle School for a planned recreation center.

J. Approval of Proposed Changes in the 2005-2006 Clinical Fee Schedule and in the 2005-2006 Environmental Health Fee Schedule.

BACKGROUND: The Board of Health at its meeting on October 18, 2006 approved changes in the 2005-06 Clinical Fee Schedule and Environmental Health Fee Schedule.

ACTION: Approve the amended fees. (Fee schedule may be found at the Board of Health)

K. Approval of a Proclamation Proclaiming November 11, 2005 as "Military Personnel and Families Appreciation Day in Cumberland County".

BACKGROUND: The Citizen-Soldier Support Program is a federally funded initiative through the University of North Carolina at Chapel Hill designed to strengthen support for Reserve, National Guard and Active-component military families by extending and reinforcing the capacity of civilian organizations, systems and resources. As part of this effort, Community Liaisons are now working in five North Carolina Regions, including Southeastern North Carolina to engage community support for these families, especially during times associated with mobilization and deployment. Ms. Crystal Moore, SENC Community Liaison would like for the Board of Commissioners to adopt a proclamation proclaiming November 11, 2005 "Military Personnel and Families Appreciation Day" in Cumberland County.

ACTION: Adopt the Proclamation

PROCLAMATION

PROCLAIMING NOVEMBER 11, 2005 "MILITARY PERSONNEL AND FAMILIES
APPRECIATION DAY IN CUMBERLAND COUNTY

WHEREAS, our country's security depends on the readiness and retention of the men and women of the United States Armed Forces, a total force comprised of Active, National Guard and Reserve personnel; and

WHEREAS, our military personnel, their families and loved ones face unique and pressing challenges through every stage of the deployment cycle; and

WHEREAS, those challenges should be met with support and recognition from their civilian communities.

NOW. THEREFORE, the Board of Commissioners of Cumberland County PROCLAIMS November 11, 2005 "Military Family Appreciation Day" in Cumberland County and urges its citizens to recognize and appreciate the extraordinary sacrifices made by both our military and their families they leave behind, as they ensure our freedom and preserve our quality of life.

L. Budget Revisions:

ACTION: Approve

(1) Mid Carolina Senior Transportation

Revision in the amount of \$1,267 to appropriate fund balance for payment of prior year transportation services. (B06-181) **Funding Source – Mid Carolina Senior Transportation Fund Balance**

(2) Sheriff

a. Revision in the amount of \$60,291 to recognize a Department of Justice technology grant to purchase in-car computer systems. (B06-182) **Funding Source – Grant**

b. School Law Enforcement – Revision in the amount of \$10,186 to appropriate fund balance to establish two crossing guard positions at Lucile Souders Elementary and Luther "Nick" Jeralds Middle School. (B06-184) **Funding Source – General Fund Fund Balance**

(3) General Government Other

Revision in the amount of \$6,500 to recognize additional grant funding of \$5,850 and a 10% county match of \$650 to extend the JCPC Community Monitoring program to May 2006. (B06-186) **Funding Source – General Fund Fund Balance and Grant**

ITEMS OF BUSINESS

2. Presentation on Lake Upchurch Dam Restoration Project by Robert Stanger, County Engineer and Consideration of Amendment to the Engineering Services Agreement.

BACKGROUND: Mr. Stanger introduced Mr. John Garner, Engineer for Schnabel Engineering, who had reported on the status of the Lake Upchurch Dam Restoration project to the Facilities Committee on October 11, 2005. Mr. Garner indicated that the plans and specifications were submitted to the regulatory agencies for review and comments will be received within 45 days. He recommended that the County move forward with the bidding process and any comments from the regulatory agencies could be incorporated into the project by addendum. He also reviewed the remediation design and discussed factors that resulted in an increase in the scope of repair work from what was initially anticipated. The increased scope of repair work has resulted in a request from Schnabel Engineering for additional engineering fees. The existing agreement approved by the Board in June, 2004, has a not-to-exceed amount of \$137,000. In March, 2005, Schnabel Engineering estimated that the additional engineering fees needed to complete the project would be \$162,500. This amount has been revised to \$68,358 through negotiations with the County Engineer.

In addition, a budget of \$1,642 is recommended for reimbursable expenses (printing costs).

ACTION: Approve Amendment 1 to the engineering agreement with Schnabel Engineering South for the Lake Upchurch Dam Restoration Project and revise the total not-to-exceed amount for services rendered from \$137,000 to \$207,000.

MOTION: Commissioner Blackwell moved to approve.

SECOND: Commissioner Council

VOTE: UNANIMOUS

3. Presentation on Proposed County Wellness Plan by Mark Browder, Mark III Brokerage.

The proposed County Wellness Plan was presented to the County Finance Committee on November 3, 2005. The Committee recommends that the Board approve the conceptual framework developed for the wellness program and authorization to move forward in implementing the program. The Health Department, CFVHS, and BCBS will partner in providing the wellness program. The roles of each are listed below:

- Health Department – Overall health promotion and leadership
- CFVHS – Evaluation tools, screenings & individual management
- BCBS – Incentives and reporting

Some of the elements of the plan are as follows:

- CFVHS will provide a health risk assessment (HRA) instrument to the county to be distributed to each county employee;
- A Wellness Fair will be held to conduct employee screenings and promote good health. The assessment document will be turned in at the Wellness Fair and CFVHS will review those documents, create an overall health profile of the employee which will be mailed to the employee's home address, and provide a global assessment of the County's employee population to county management. Grocers, local fitness centers, health associations such as the American Heart Association will participate in the Wellness Fair.
- The "at risk" segment of the employee population will be defined by the County Health Department and CFVHS based on the most significant results from the HRAs and screenings. CFVHS will provide outreach to the "at risk" population in the form of invitations to meet with CFVHS staff on specific health issues and create a plan of action. An individualized program will be designed for the employee to help improve his/her condition.
- HOPE (Health Options for Productive Employees) is a Health Department initiative. It is based on the belief that increased activity and exercise will benefit all employees. It will offer 30 extra minutes for the employee to use at lunchtime only if the extra time is used to exercise at a facility or location of the employee's choice.

The initial cost to get this Wellness Program started is \$100,000, which includes funding for a Wellness Coordinator, costs of mailings to employees, Wellness Fair and some medical testing equipment and materials, etc.

It has been suggested that an incentive for maximum participation among employees is to reduce or waive the "employee only" cost of health insurance premiums. Cost to the county if all employees participate would be \$400,000 plus. The County Manager said he did not believe the county could waive the entire premium cost. In addition, the Manager said he believed employees should be required to sign a contract with the county if the county is going to offer incentives. The consensus of the Board was favorable regarding the contract issue.

ACTION: Follow the recommendation of the Finance Committee and approve the conceptual framework of the Wellness Program and authorize staff to move forward.

4. Presentation of Update on 2030 Land Use Plan by Nancy Roy, Planning & Inspections Director.

Nancy Roy, Planning/Inspections Director, provided an update on the progress of the 2030 Land Use Plan. Public Workshops were held from September 13-29, 2005 to receive input from citizens on their vision for our county for the future. These meetings were held in locations throughout the county. Attendance ranged from 10 to 80 attendees. The results of the workshops

indicate the public is interested in economic development, growth management, open space and rural area preservation, intergovernmental cooperation and efficiency, community appearance, law enforcement, senior citizens services, transit service, walkable communities, water and sewer services, commercial development/services, community involvement, parks and recreation, road improvements and school facilities.

The next step in this process is the “Focus-Research” step. White papers will be prepared analyzing the desired future interests. Policies will be developed by the consultant for review by the 2030 Growth Vision Task Force.

There will be updates provided to all of the governing boards to assure everyone is up to speed on this project.

No action needed.

5. Consideration of Youth Sports Tourism Report and Recommendation for Funding.

BACKGROUND: J.D. Daniels, Managing Principal of USA Partners, entered into a contact with the City of Fayetteville and Cumberland County to develop a recreation plan, which will enable our city and county to attract large national, regional and state multi-purpose tournaments, camps and special events. The Plan defined what was needed to develop, upgrade and market to attract major youth related tournaments and special events. USA will develop a strategy to direct packaged events revenue into a youth sports tourism “special account” which will be used to continue to develop additional facilities and market Fayetteville/Cumberland County as a major youth sports host destination.

The first project for USA is to upgrade Jordan Soccer Complex. All proposals are contingent upon the acquisition of the Jordan Soccer Complex and approval of matching dollars from the County and City of Fayetteville. The \$250,000 from the City and County will be reimbursed from future tournament user fees.

ACTION: Approve the allocation of \$125,000 from the Recreation Fund to support Phase I & II contingent upon the approval of the Fayetteville City Council for the projects and the Fayetteville Cumberland Parks and Recreation receipt of information requested.

The Board discussed some issues such as co-usage among the local soccer programs and the USA programs for use of the soccer field. They were assured that the USA programs would not interfere with the local programs.

Commissioner King inquired how the initial \$90,000 had been spent. It was spent developing a plan to determine and inventory what was needed to develop, upgrade and market this major youth tournament and special events.

MOTION: Commissioner King moved to approve the request for \$125,000 (\$62,500 for each phase), contingent on the City of Fayetteville’s approval.
SECOND: Commissioner Blackwell
VOTE: UNANIMOUS

6. Nominations to Boards and Committees

A. Adult Care Home Community Advisory Committee (1 Vacancy)

BACKGROUND: Thomas E. Jones has completed his first term. He has been inactive and does not respond to letters, phone calls or notices of meetings. It is requested that he be replaced by Stephanie L. Hodges.

Nominee: Stephanie L. Hodges

B. Board of Adjustment – Alternate Member (1 Vacancy)

BACKGROUND: Dr. John Ray has resigned.

ACTION: Nominate to fill the vacancy.

Nominee: Joseph M. Dykes

C. Library Board of Trustees (2 Vacancies)

BACKGROUND: Fred D. Littlejohn has completed his first term and is eligible for reappointment. Gail Riddle has completed a second term.

The Library Board recommends that Fred Littlejohn be reappointed and that Susan Walters be considered for appointment to fill Ms. Riddle's position.

ACTION: Nominate to fill the above vacancies.

Nominees: Fred Littlejohn
Susan Walters

D. Nursing Home Advisory Board (2 Vacancies)

BACKGROUND: Mr. Glen Kelly declined his appointment. Charlayne Stephens resigned due to health problems.

ACTION: Nominate to fill the vacant positions.

Nominees: Pam Story
Peter Paoni

E. Transportation Advisory Board (6 Vacancies)

BACKGROUND: Vacancies:

Mid Carolina Council of Government Representative: Jim Caldwell has completed his second term. Carolyn Tracy is recommended to fill the position.

DSS Director/designee representative: William Duke has completed his second term. Crystal Black is recommended to fill the position.

DSS Work First representative: Richard Averett has completed his second term. Ann Farrell has been recommended to fill the position.

Workforce Development Center Director/designee: Patrick Hurley has completed his second term. Geneva Mixon has been recommended to fill the position.

Aging Programs representative: Marshall Lanter has completed his second term. Katherine Van Sickle has been recommended to fill the position.

County Health Director/designee representative: Sharon Stanley has completed her first term and is eligible for reappointment.

Nominees: Carolyn Tracy – Mid Carolina representative
Crystal Black – DSS representative
Ann Ferrell – DSS Work First representative
Geneva Mixon – Workforce Development representative
Sharon Stanley – Health department representative
Katherine Van Sickle – Aging Programs representative

F. Workforce Development Board (1 Vacancy)

BACKGROUND: David McCune has completed a third term on this Board. He is not eligible for reappointment. JoLeita Strickland Evans has been recommended to fill the vacancy.

Nominee: JoLeita Strickland Evans

7. Appointments to Boards and Committees

MOTION: Commissioner Blackwell moved to appoint the nominees by acclamation.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Juvenile Crime Prevention Council (1 Vacancy)

Nominee: Chief of Police or Designee: Lt. Sherry Sparks

B. Minimum Housing Appeals Board (1 Vacancy)

Nominee: John Williams

8. Closed Session
- A. Economic Development Matter Pursuant to NCGS 143-318.11(a)(4).

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

C. Attorney Client Matter pursuant to NCGS 143-318.11(a)(3)

MOTION: Commissioner Blackwell moved to go into Closed Session for the above noted matters.

SECOND: Commissioner King

VOTE: UNANIMOUS

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

SECOND: Commissioner Baggett

VOTE: UNANIMOUS

MEETING ADJOURNED: 11:30AM.

Clerk to the Board