

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
OCTOBER 15, 2007, 6:45PM
REGULAR/REZONING MEETING

PRESENT: Chairman Kenneth S. Edge
Vice Chairman J. Breeden Blackwell
Commissioner Jeannette M. Council
Commissioner John T. Henley, Jr.
Commissioner Billy R. King
Commissioner Edward G. Melvin
Commissioner Billy R. King
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Cliff Spiller, Asst. County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Butch Raynor, Deputy County Attorney
Tom Lloyd, Planning/Inspections Director
Marsha Fogle, Clerk to the Board
Marie Colgan, Deputy Clerk to the Board

INVOCATION - Commissioner John Henley

PLEDGE OF ALLEGIANCE – Benjamin Wiggs - 3rd Grade, Village Christian Academy

Recognition: Cumberland County Cares Award - Dr. Tinsley Rucker - CARE Clinic

Recognition of Retired County Employee: Glenn Mobley – Sheriff's Office

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM) – NO SPEAKERS

1. A. Presentation of the FY 2007 Cumberland County Public Library Annual Report by Jerry Thrasher.

Jerry Thrasher, Director, Cumberland County Library System presented his annual report to the Board.
Some of the highlight of the year:

- Celebrated 75th anniversary
- Branch development study completed
- Joint elementary school and public library planned
- Restored hours at two branch libraries
- Megan Smith named to the Caldecott Committee
- Overall growth in programs and audience of 20.2% and 37.9% respectively
- Total active library cards – 201,049

NO ACTION NEEDED

2. Consent Agenda

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- A. Approval of minutes for the October 1, 2007 regular meeting.

ACTION: Approve

- B. Approval of Proposed Increase in the Health Department 2007 Flu and Pneumonia Vaccine Fees.

BACKGROUND: The Board of Health at its meeting on September 18, 2007 unanimously approved an increase in fees for the Flu & Pneumonia Vaccines as follows:

Flu Vaccine
Current Fee: \$25.00
Proposed Fee: \$30.00

Pneumonia Vaccine
Current Fee: \$35.00
Proposed Fee: \$40.00

ACTION: Approve new fees as recommended by the Board of Health.

- C. Approval of Delinquent Accounts to be Turned Over to Collectors for the Health Department.

BACKGROUND: The Board of Health at its meeting on September 18, 2007 approved writing off a total of \$78,886.49 as bad debts. Family Planning accounts in the amount of \$12,523.27 will be written off as a bad debt, but can't be turned over to the Collection agency pursuant to NC Department of Health & Human Services Guidelines. Therefore, the amount to be sent to the collection agency is \$66,363.22.

ACTION: Approve the write off of \$78,886.49 as bad debts and turn over to the Professional Recovery Consultant's, Inc. collection agency a total of \$66,363.22 for collection.

- D. Approval of Interlocal Agreement Between the Cumberland County Board of Commissioners and Cumberland County Board of Education for Joint Use of School Facilities for Community Recreation.

BACKGROUND: This Interlocal Agreement would renew for three years, through June 10, 2010. The agreement contemplates that for purposes of the Agreement the County would act through the Cumberland County Fayetteville Parks and Recreation Department as its agent.

ACTION: Approve the Interlocal Agreement, contingent upon approval by the City of Fayetteville with respect to responsibilities of Cumberland County/Fayetteville Parks and

Recreation Department, and authorize the Chairman to sign the Agreement on behalf of the County.

E. Approval of Bids for Ann Street Subtitle D Landfill Gas Collection and Control System – Phase I.

BACKGROUND: Bids were received on September 13, 2007 for the above noted project. The County did not receive a minimum of three bids as required by the NC General Statutes. The project was re-advertised again and bids taken on September 27, 2007. The low bid was submitted by Shaw Environmental & Infrastructure, Inc. in the amount of \$1,699,645.50. The contractor has successfully installed landfill gas collection systems, and Camp Dresser & McKee has prior experience with Shaw.

ACTION: Accept the bids, award the contract to Shaw Environmental & Infrastructure, Inc. in the amount of \$1,699,645.50 and approve associated budget revision (B08-120).

F. Approval of Bid Award for Bay Shore Properties Dam Removal, Grading & Erosion Control Project – Lake Upchurch.

BACKGROUND: Bids were received on October 4, 2007 for the above referenced project. The low bid was submitted by Sanford Contractors, Inc. in the amount of \$349,535.00. A 10% contingency in the amount of \$35,000 is requested for the project to be used for justifiable changes in the scope of work recommended by the County Engineer and approved by the County Manager. In addition, a budget of \$20,000 will be required for materials testing (compaction testing) and surveying services. Funding for the project will come from a cash contribution of \$340,000 from the property owners and others with the balance coming from the Water & Sewer Fund. All costs associated with the work in excess of the \$340,000 contribution will be assessed against the benefited property owners in the Lake Upchurch Dam Remediation special assessment project area.

ACTION:

- (1) Accept the bids and award to the low bidder – Sanford Contractors, Inc. in the amount of \$349,535.00;
- (2) Establish a project contingency in the amount of \$35,000;
- (3) Establish a materials testing and surveying contingency in the amount of \$20,000
- (4) Approve budget revision (B08-119)

G. Approval of Community Development Energy Efficiency Policy.

BACKGROUND: In order to reduce the effect of utility costs for low/moderate income households, the US Department of Housing and Urban Development and the NC Cooperative Extension Agency are asking for participation in a single-family rehabilitation program for improvement of energy efficiency in existing housing. Cumberland County Community Development is proposing adoption of an Energy Efficiency Policy in response to the participation request. The Policy is as follows:

In an effort to reduce the effect of utility costs for low/moderate income households, the Cumberland County Community Development Department has adopted Energy Star Standards for new construction projects and substantial rehabilitation projects up to three stories completed under its Housing Rehabilitation Program, Affordable Housing Program and by non-profit agencies such as Community Housing Development Organizations and Community Development Corporations. The Energy Star Standards are a higher standard than the 1992 Model Code for energy previously established by HUD. Through adoption of this policy, CCCD will also participate in the single-family home rehabilitation program for improvement of energy efficiency in existing housing as outlined by HUD and the NC Cooperative Extension Agency.

The primary purpose of Energy Star Standards is to build higher quality, more affordable housing while simultaneously reducing air pollution and the demand for energy. In addition, the adoption of this policy will result in lower utility bills and improved comfort for residents, as well as increased project value. Adoption and implementation of Energy Star Standards provides a system for achieving and verifying a certain level of performance with respect to energy efficiency in construction projects and substantial rehabilitation projects up to three stories.

Specific goals and benefits of Energy Star Standards include lower utility costs, increased comfort and greater structure durability. These goals are achieved by installing Energy Star appliances and specifying certain kinds of building materials for Energy Star Standards projects. Some items for consideration in Energy Star projects are as follows:

- Energy Star appliances, i.e., refrigerators, ranges, water heaters;
- Energy Star rated heating & air conditioning equipment;
- Use of qualified light bulbs;
- Improved insulation of the building envelope; and
- Installation of advanced windows and doors.

The contractor or development must ensure that each project completed is reviewed by an independent Energy Star Home Rater as part of the Energy Star certification process.

ACTION: Approve the Policy as noted above.

- H. Approval of a Proclamation Proclaiming October 23, 2007 as the “Day of National Concern” in Cumberland County and the Week of October 23-31, 2007 as “Red Ribbon Week” in Cumberland County.

ACTION: Approve Proclamation

RED RIBBON WEEK PROCLAMATION

WHEREAS, gun violence, alcohol and drug abuse have been identified as significant dangers to young people and our communities today; and

WHEREAS, violence and substance abuse among the nation’s youth have emerged as some of the nation’s greatest threats to a healthy lifestyle among our young people; and

WHEREAS, it is critical that schools, parents and communities develop a proactive, collaborative approach to prevention and education efforts throughout our county that reduces violence against youth as well as the demand for alcohol and other substances; and

WHEREAS, the Department of Justice, Eastern District US Attorney’s Office of North Carolina is leading the efforts of the Day of National Concern, Tuesday, October 23, 2007, focusing on preventing gun violence and other violence among youth – this national day is an observance that gives students across the country and opportunity to take a stand against gun violence by signing the students pledge against gun violence. In addition the National Family Partnership for a Drug-free North Carolina and the Coalition for Awareness, Resources and Education of Substances are sponsoring the National Red Ribbon Campaign which offers

community members the opportunity to display their commitment to a drug free lifestyle by wearing a red ribbon; and

WHEREAS. Local government, businesses, law enforcement, school systems, citizens and students will express their commitment to a lifestyle free of youth substance usage and gun violence by signing the Day of National Concern Students Pledge on October 23, 2007 and by wearing a ribbon during Red Ribbon Week Campaign.

NOW, THEREFORE, the Board of Commissioners of Cumberland County PROCLAIMS Tuesday, October 23 2007 “Day of National Concern” in Cumberland County and the week of October 23-31, 2007 “Red Ribbon Week” and encourages all citizens to take active roles in preventing substance abuse and gun violence among our youth in our communities during these dates and indeed, throughout every day of the year.

I. Budget Revisions:

ACTION: Approve

(1) Social Services

Revision in the amount of \$69,141 to recognize additional federal funding for the Crisis Intervention program. (B08-099) **Funding Source – Federal**

(2) Senior Aides/Workforce Development Administration

Revisions in the total amount of \$188,710 to recognize increase in funding from Senior Services America Inc. with \$180,987 for the Senior Aides Program and \$7,723 for administrative services. (B08-100 and B08-100A) **Funding Source – Senior Aides Grant**

(3) Health

Medical Records - Revision in the amount of \$16,477 to reallocate budgeted expenditures to create a new Processing Assistant III position. (B08-102) **Funding Source – Reallocation of Budgeted Expenditures**

3. Public Hearings

Uncontested Cases

Upon finding the requests to be reasonable, neither arbitrary nor unduly discriminatory and in the public interest the following motion was offered:

MOTION: Commissioner Blackwell moved to follow the Planning Board recommendation on the Uncontested Rezoning Cases.

SECOND: Commissioner King

VOTE: UNANIMOUS

Rezoning

- A. Case P07-47. The rezoning of two portions of a 20.25 acre tract, consisting of 9.43 acres and 4.20 acres from M2 to R7.5, or to a more restrictive zoning district, located south of Church Street, east of Freedom Lane, owned by Gillis & Gillis, Inc.

The Planning Board recommends approval of R7.5 District for the portion of the subject property at or above the 84MSL and that portion below the 84 MSL to CD Conservancy District with the exception of the first 210 feet of the southeastern corner of Tract 1 where the R7.5 District line will follow the 83MSL. The remainder of the subject property below the 83MSL would be rezoned to CD Conservancy District.

- B. Case P07-74. The rezoning of two parcels totaling 1.76 acres from C3 to RR, or to a more restrictive zoning district, located on the northwest side of Clinton Road, east side of Bladen Circle, owned by Della Mol and Amanda R. Watson.

The Planning Board recommends approval of RR.

- C. Case P07-77. The rezoning of 1.42 acres from R6A to C1(P), or to a more restrictive zoning district, at 3680 Cumberland Road, owned by Granville T. and Evelyn M. Jackson.

The Planning Board recommends approval of C1(P).

Conditional Use Permit Cases

- D. Case P07-22. The rezoning of 2.2 acres from A1 to R20, or to a more restrictive zoning district, at 871 Remley Court, owned by Brian Daigneault.

The Planning Board recommends denial of the rezoning request.

PUBLIC HEARING OPENED.

1. Brian Daigneault – petitioner. Mr. Daigneault asked the Board to approve this conditional use overlay district so that he could build a cape-cod type home for his mom and dad. He noted that he owned other properties in other counties but wanted to keep his parents close so he would feel good about their safety.

PUBLIC HEARING CLOSED

MOTION: Commissioner Council moved that the Board of Commissioners fails to find that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest and that it be denied.

SECOND: Commissioner Wheatley

VOTE: FAVOR: Commissioners Council, Wheatley, Edge, Henley

OPPOSED: Commissioners Blackwell, King, Melvin

- E. Case P07-71. The rezoning of two parcels totaling 7.93 acres from R6 and C1(P)/CU to C(P), or to a more restrictive zoning district, located on the south side of Andrews Road, east side of McArthur Road, owned by Creekwood Car Company, LLC and Jacqueline C. Andrews.

The Planning Board recommends approval of C(P) Planned Commercial District/Conditional Use District and Permit with uses, conditions and exceptions as noted in the Planning Board Staff memo.

NO SPEAKERS

MOTION: Commissioner Blackwell moved that the board of Commissioners finds that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it be approved with uses as noted in the Planning Board Staff memo.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board of Commissioners finds that the Conditional Use Permit application, if completed as proposed and subject to all conditions as outlined in the Planning Staff memo and approved by the Planning Board, 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 Lane Use Plan, Thoroughfare Plan or other plan officially adopted by the Board of Commissioners, and that it be approved.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

- F. Case P07-75. The rezoning of two parcels totaling 11.66 acres from RR and C(P) to C(P)/Conditional Use District and Permit to Allow Mini-Warehousing, Retail/Office Space, Second Floor Dwelling Unit and Car Wash, or to a more restrictive zoning district, located at the South Quadrant of Rockfish and Camden Roads, owned by USA Storage Center LLC.

The Planning Board recommends approval of C(P) Planned Commercial District/Conditional Use District & Permit.

NO SPEAKERS

MOTION: Commissioner Council moved that the Board of Commissioners finds that this Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it be approved with uses as noted in the Planning Board Staff memo.

SECOND: Commissioner Melvin

MOTION: Commissioner Council moved that the Board of Commissioners finds that the Conditional Use Permit application, if completed as proposed and subject to all conditions as outlined in the Planning Staff memo and approved by the Planning Board, 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 Lane Use Plan, Thoroughfare Plan or other plan officially adopted by the Board of Commissioners, and that it be approved.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

REGULAR AGENDA ITEMS

4. Validation of BRAC Regional Task Force Members.

BACKGROUND: The BRAC Regional Task Force has asked for validation of the county and municipal representatives currently serving on the Task Force. Historically, the Chairman of the Board of Commissioners represents the County, with the County Manager designated as an alternate representative. The Mayor of the City of Fayetteville represents the municipalities with the Mayor of Spring Lake serving as an alternate representative.

ACTION: Approve the Chairman of the Board as the county representative, the County Manager and Deputy County Manager as alternate county representatives, the Mayor of Fayetteville as the municipal representative along with the Mayor of Spring Lake as an alternate. (Note: The municipalities concur with this recommendation)

MOTION: Commissioner Melvin moved to approve.

SECOND: Commissioner King

VOTE: UNANIMOUS

5. Consideration of Extension of Term for Dr. Rakesh Gupta on the Cape Fear Valley Hospital System Board of Trustees.

BACKGROUND: Dr. Rakesh Gupta's term on the Hospital Board will expire in January, 2008. However, because of the recent conversion of the hospital system and the resignation of the CEO, it has been suggested that Dr. Gupta's term be extended in order to maintain continuity on the Board. Dr. Gupta currently serves as President of the Hospital Board of Trustees. In addition, the Hospital is currently searching for a new CEO, and it is felt that it would be in the best interest of the Hospital System to extend Dr. Gupta's term.

ACTION: Consider approval of the extension of Dr. Gupta's term.

MOTION: Commissioner Henley moved to extend Dr. Gupta's term to January, 2009.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

6. Consideration of Cumberland County Finance Committee Report and Recommendation:

A) Consideration of County Participation in the Hope VI Project Application for FY 2008.

BACKGROUND: The Fayetteville Metropolitan Housing Authority is applying for HOPE VI grant funds. The funds will be used to construct over 600 affordable housing units in the Old Wilmington Road neighborhood. Cumberland County and the City of Fayetteville have been asked to commit money for the infrastructure needs (water & sewer, street lights, sidewalks, curb & gutters, and streets) for the project in an amount of \$9,360,000. The proposed plan includes the City & County jointly borrowing the \$9,360,000 pledging the incremental property tax increase from the revitalized district to repay the debt. The proposed allocation of the debt repayment is based upon the relative tax rate of both jurisdictions. The County's share would be 62% (\$5,803,200) and the City's share would be 38% (\$4,136,456). The City and County staffs have met to discuss the project and the financial commitments and funding percentages. The County Staff expressed concerns about the allocation method proposed and recommended that the County, the City and PWC equally share the infrastructure cost of \$9.3 million. The City said it could not endorse the county's recommendation since PWC will derive no tax revenues from the project once it is complete. The County also has a concern about dedicating all of its incremental taxes from this area because of the funding agreement with the Board of Education. The County Finance Committee discussed this matter at its October 4, 2007 meeting.

The Finance Committee recommends that the County commit at least \$3,120,000 to the HOPE VI Project and that its share be contributed up-front contingent upon the approval of the FY08 grant application. Additionally, the Finance Committee recommends that additional funding be considered if the Board of Education is willing to waive its share of the incremental property taxes realized from the project up to \$1.9 million (50% County and 50% Board of Education). Management will approach the Board of Education to see if it would consider amending the funding agreement to reflect its waiver of the property tax proceeds up to \$1.9 million.

ACTION: Consider the recommendation of the Finance Committee as noted above.

MOTION: Commissioner King moved to approve \$4 million to be provided up front for the Hope VI project.

SECOND: Commissioner Henley

DISCUSSION: Chairman Edge noted that he had received an e-mail from the Mayor stating that if the County would provide the \$4 million the City could find the rest of the money.

VOTE: UNANIMOUS

- B) Approval of Interlocal Agreement Between Cumberland County Board of Commissioners and Cumberland County Board of Education for Sales Tax Refund – Grays Creek Conveyance.

BACKGROUND: At its meeting of October 4, 2007, the Finance Committee unanimously recommended approval of a proposed Interlocal Agreement between the Board of Commissioners and the Board of Education for the County to remit sales tax refunds on materials, equipment and supplies used in building the new Gray's Creek school back to the school system for additional capital projects. The Board of Education would transfer the property to the County during construction. The County would designate the Board of Education as its agent for letting contracts, funding the project within a budget established by the Board of Education and approved by the County, and supervising construction. The Board of Commissioners would designate the school system's Associate Superintendent for Business Operations as a Deputy Finance Officer of the County for the limited purpose of pre-auditing expenditures pursuant to the agreement as required by state law. The Board of Education would provide insurance and indemnify the county against liabilities incurred during the construction. The county would promptly apply for and remit to the school system sales tax refunds to be used exclusively to provide supplemental funding for school capital building and renovation projects approved by the County. The County would re-convey the property to the Board of Education at close-out of the project.

ACTION: Approve the Interlocal Agreement and authorize the Chairman to sign on behalf of the County.

MOTION: Commissioner Council moved to approve.

SECOND: Commissioner King

VOTE: UNANIMOUS

7. Information / Discussion Regarding the ¼ Cent Sales Tax Referendum.

BACKGROUND: Commissioner John Henley requested this item be placed on the agenda.

Commissioner Henley noted the importance of the passage of this sales tax. He said if it did not pass it would put enormous pressure on the property tax rate. He said he felt confident that if money is available during the budget process, his colleagues on the Board would support a 2 cent decrease in the property tax. He noted that while he was willing to make that commitment official now, some of his colleagues on the Board would prefer to wait and consider it during the budget process. Commissioner Melvin said he supports the sales tax and will push for property tax relief in the next budget session. Commissioner Wheatley said she will support a property tax reduction also. Commissioner King said the Board was pretty much on record in supporting a property tax reduction in the next fiscal year budget.

NO ACTION TAKEN

8. Nominations to Boards and Committees

- A. Child Homicide Identification and Prevention (CHIP) Council (11 Vacancies)

This item was removed from the agenda.

- B. Cumberland County Home and Community Care Block Grant Committee
(1 Vacancy)

BACKGROUND: Crystal McNair's (civic representative) term will expire on November 30, 2007. She is eligible for reappointment

NOMINEE: Crystal McNair

- C. Mental Health Board (1 Vacancy)

BACKGROUND: Michael Boose (individual with management or business expertise) has submitted his resignation. The Mental Health Board recommends Liliana Parker to fill the unexpired term.

NOMINEE: Liliana Parker

- D. Transportation Advisory Board (8 Vacancies)

This item was removed from the agenda.

9. Appointments to Boards and Committees

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

SECOND: Commissioner Council

VOTE: UNANIMOUS

- A. Library Board of Trustees (2 Vacancies)

Nominees: Robbin Tatum (Reappointment)
Willie Wright

- 10. Closed Session:
 - A. Attorney Client Matter(s)
Pursuant to NCGS 143-318.11(a)(3).
 - B. Economic Development Matters
Pursuant to NCGS 143-318.11(a)(4).

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

SECOND: Commissioner King

VOTE: UNANIMOUS

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

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

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

MEETING ADJOURNED: 9:05PM.

Clerk to the Board