

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
SEPTEMBER 19, 2011 – 6:45 PM  
117 DICK STREET, 1<sup>ST</sup> FLOOR, ROOM 118  
REGULAR/REZONING MEETING  
MINUTES

PRESENT: Chairman Kenneth Edge  
Commissioner Jeannette Council  
Commissioner Charles Evans  
Commissioner Marshall Faircloth  
Commissioner Jimmy Keefe  
Commissioner Billy King  
Commissioner Ed Melvin  
James Martin, County Manager  
Amy Cannon, Deputy County Manager/Finance Officer  
James Lawson, Assistant County Manager  
Rick Moorefield, County Attorney  
Phyllis Jones, Assistant County Attorney  
Sally Shutt, Communication and Strategic Initiatives Manager  
Tom Lloyd, Planning and Inspections Director  
Matt Rooney, Planning and Inspections  
Denise Sykes, GIS Planner  
George Quigley, Cooperative Extension Advisory Chairman  
Angela Shaver, 4-H Youth Development Extension Agent  
Kenny Bailey, Cumberland County Agricultural Extension Agent  
Thanena Wilson, Community Development Director  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

INVOCATION - Commissioner Marshall Faircloth, Vice Chairman

PLEDGE OF ALLEGIANCE - AJ Chestnutt, Senior, Terry Sanford High School

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM)

James Martin, County Manager, read the public comment period policy. Chairman Edge opened the public comment period and the Clerk to the Board called the following speakers:

Jan Spell – Ms. Spell, President of Hope Mills Area Chamber of Commerce, stated now is the time for the Hope Mills Chamber of Commerce to step into the forefront of the other Chambers of Commerce in the Cumberland County area. Ms. Spell stated for the first time, the Town of Hope Mills granted the Chamber money for economic development and the funds that the Chamber is requesting from the county will be used for growing and promoting the Town of Hope Mills, updating the Chamber's website, welcome signs for the community and other economic

development projects. Ms. Spell stated the Chamber will be soliciting funds from the Tourism Development Authority (TDA) for billboards on interstate highway 95 to get the word out that Town of Hope Mills is open for business.

Myra Baker – Ms. Baker stated in 2004, the sale of Rhodes Pond was negotiated with the Sandhills Area Land Trust (SALT) for preservation and SALT delegated responsibility for management of the pond to the NC Wildlife Resources Commission. Ms. Baker stated while in charge of the pond, the NC Wildlife Resources Commissioner began implementing a series of changes that detracted from the pristine nature of the pond and from the habitat conservation, and threatened recreational and educational activities at Rhodes Pond.

Commissioner Faircloth asked Ms. Baker what she was seeking from the Board. Ms. Baker stated she was told by the Secretary of State that she needed to garner more local support before approaching the state. Chairman Edge stated he had explained to Ms. Baker that this is a state issue and not a county issue. Chairman Edge also stated Ms. Baker had contacted Representative Glazier but thus far had not received any assistance from the state. Chairman Edge stated a majority of the Board would need to support the issue in order for the county to become involved. Discussion followed. The consensus of the Board was to present the matter to the legislative delegation at the September 27, 2011 joint meeting.

Margarete Yarick – Ms. Yarick stated she is a neighbor of Ms. Baker and has seen the destruction of and disregard for Rhodes Pond. Ms. Yarick invited the Board to visit the pond. Ms. Yarick stated she would like to see construction on the site that would contribute to recreational possibilities.

#### Special Recognition of Chairman Kenneth Edge Inaugurated as NCACC President for 2011-2012

Commissioner Marshall Faircloth recognized Chairman Kenneth Edge and stated Chairman Edge was sworn in as President of the North Carolina Association of County Commissioners on Saturday, August 20, 2011 during the Association's Annual Conference. Commissioner Faircloth further stated as NCACC President, Chairman Edge will work closely with the other members of the NCACC Executive Committee to guide the NCACC Board of Directors on legislative and administrative issues affecting counties throughout the year. Commissioner Faircloth stated Chairman Edge has served on the Cumberland County Board of Commissioners since 2000, was elected NCACC Second Vice President in August 2009 after serving two years on the NCACC Board of Directors as an At-Large Appointee, moved up to First Vice President in August 2010, and was appointed by the NCACC Board of Directors as President Elect in December 2010. Commissioner Faircloth also stated Chairman Edge is the fourth president to hail from Cumberland County in the Association's 103-year history, following Virginia Oliver, Billy King, and J. Breeden Blackwell. The Board and staff extended their congratulations to Chairman Edge.

Special Recognition of the Cumberland County Library for Receiving the Local Government Federal Credit Union (LGFCU) Employee Productivity Award for Improved Efficiency at the Bordeaux Branch Library. This acknowledgement was made at the North Carolina Association of County Commissioners Annual Meeting

Commissioner Jeannette Council recognized the Cumberland County Public Library and Information Center for having been awarded the 2011 Local Government Federal Credit Union Employee Productivity Award, which acknowledged the improved efficiency and productivity at Bordeaux Branch Library during the past year. Commissioner Council stated the announcement was made at the recent meeting of the North Carolina Association of County Commissioners, where county officials were on hand to accept a check for this outstanding accomplishment. Commissioner Council explained some of the transformations that had occurred at the Bordeaux Branch Library and stated funding for the project came from a \$97,000 grant through the Library Services Technology Act, which was awarded by the State Library of North Carolina, and Cumberland County. Commissioner Council also stated the \$1,000 check for this award will be used by the Friends of the Library to add resources and services to Bordeaux Branch. Commissioner Council further stated the Bordeaux Branch at 3711 Village Drive is the second busiest community branch with more than 140,000 customer visits in Fiscal Year 2009, and is also the smallest branch at only 10,000 square feet. The Board extended its congratulations to Library Director Jody Risacher.

Special Recognition of Mr. Kenny Bailey, Cumberland County Agricultural Extension Agent for receiving the Distinguished Service Award (DSA) by the National Association of County Agricultural Agents (NACAA) in Overland Park, Kansas

Commissioner Council recognized Kenny Bailey as this year's recipient of the Distinguished Service Award, which is the highest award bestowed upon members of the National Association of County Agricultural Agents. Commissioner Council stated Mr. Bailey has served for over seventeen years as an Agricultural Extension Agent in Cumberland County and his areas of expertise are commercial horticulture and beekeeping, where he earned the rank of Master Beekeeper. Commissioner Council also stated Mr. Bailey has been recognized for his work with the Fayetteville Farmers Market and the Cumberland County Beekeepers. The Board extended its congratulations to Mr. Bailey.

Special Recognition of Ms. Angela Shaver, Cumberland County 4-H Youth Development Extension Agent for Receiving a Professional Development Scholarship, Search for Excellence Award from the North Carolina Cooperative Extension, and the Carolyn Stanley Barnes and George Edward Barnes 4-H Graduate Education Scholarship

Chairman Edge recognized Angela Shaver, 4-H Extension Agent for Cumberland County, who recently received the N.C. Cooperative Extension Service Foundation Search for Excellence Award in Resource Development for her accomplishments in fundraising. Chairman Edge stated this award will enable Ms. Shaver the opportunity to attend the National Association of Extension 4-H Agents Conference this fall. Chairman Edge also recognized Ms. Shaver for having received the Carolyn Stanley Barnes and George Edward Barnes 4-H Graduate Education Scholarship. Chairman Edge stated Ms. Shaver will use this scholarship to support her continuing education efforts in earning a graduate certificate in youth and family development from N.C. State University. The Board extended its congratulations to Ms. Shaver. Ms. Shaver offered brief comments.

#### Special Presentation and Recognition by Ms. Angela Shaver of 4-H Award and Honor Recipients

Ms. Shaver recognized the following 4-H members who had received awards for their work on 4-H presentations. Mr. Shaver stated there were ten 4-H members representing Cumberland County at the district, state and national competitions.

Amber DeRouin	Amanda White	Nia Wilson
Ryan DeRouin	Jasmine Wilson	Mary Vorder Bruegge
Brooke Newton	Johnnie Wilson	Ruthy Vorder Bruegge
Lavette Turner		

The Board extended its congratulations to the 4-H award and honor recipients.

Special Presentation by Cumberland County 4-H Member Lavette Turner on the 2011 North Carolina Association of County Commissioners (NCACC) Youth Summit, YouthVoice which was presented at the NCACC Annual Meeting in Concord, North Carolina, August 19-20, 2011

Ms. Shaver introduced Lavette Turner as the Cumberland County delegate to the NCACC conference and called on her to provide an overview of discussions held during the NCACC Youth Summit, YouthVoice. Ms. Turner shared strategies that were developed for the top ten issues for teens in North Carolina that included strategies for teen pregnancy, substance abuse, dropout rate, and violence.

Special Recognition of Cumberland 4-H Member Ruthy Vorder-Bruegge, Team Member, for Winning 4-H Horse Bowl Team at World Competition in Oklahoma City and also a Winner in the Southern Regional 4-H Horse Championship in Tunica, Mississippi

Ms. Shaver recognized Ruthy Vorder-Bruegge, a Cumberland County 4-H member, who helped her team win first place in the Horse Bowl Competition at the

2011 Built Ford Tough American Quarter Horse Youth Association (AQHYA) World Championship Show held August 5-13, 2001 in Oklahoma City. Ms. Shaver stated Miss Vorder-Bruegge, a 15-year-old member of the Hoofbeats 4-H Club, was part of the award-winning team from North Carolina. Ms. Shaver explained the Horse Bowl Contest, which is conducted in similar fashion to an academic quiz bowl, is designed to offer an opportunity for young people interested in horses to display the knowledge they have gained in a competitive and friendly atmosphere.

Ms. Shaver also recognized Miss Vorder-Bruegge as a winner in the Southern Regional 4-H Horse Championships in Tunica, Mississippi where she placed first in the Horse Presentation Contest. Ms. Shaver stated Miss Vorder-Bruegge chose to present her own experience in dealing with equine disease by talking about her horse, Finesse, who was diagnosed with uveitis, more commonly known as Moon Blindness. Ms. Shaver also stated Miss Vorder-Bruegge will advance to national Horse Presentation Contests this fall, and explained the Horse Presentation Contest is designed to encourage youths to teach others how to do something related to horses by the correct use of visuals and equipment and to give youth confidence in their ability to present information in a logical and concise manner.

Ms. Shaver stated Miss Vorder-Bruegge was also a member of the NC 4-H Hippology Team and explained Hippology provides participants with the opportunity to blend the knowledge and skills acquired in horse judging, the horse bowl, horse demonstrations and public speaking, into one activity. Ms. Shaver also stated the NC 4-H Team won first place and Miss Vorder-Bruegge was named fifth place overall in the Hippology competition.

Chairman Edge thanked Ms. Shaver for her work with the 4-H youth and George Quigley, Cooperative Extension Advisory Chairman, for his involvement with agricultural extension programs in Cumberland County.

Chairman Edge recognized and extended a welcome to Elizabeth Floyd, Chief Financial Officer of the NCACC. Chairman Edge also recognized former County Commissioner Diane Wheatley.

Mr. Martin requested the addition of a closed session for economic development matters as Item 10.B. and to amend Item 4.C. to state “a report from the county attorney on developments regarding the granting of an easement across the county’s landfill project to the City of Fayetteville for the Cape Fear River Trail”. Mr. Martin explained he had received correspondence from the Fayetteville city manager asking that the county not take action on the matter during this meeting because the city manager intends to add it to the agenda for the joint city/county meeting to be held on September 29, 2011.

#### 1. Approval of Agenda

MOTION: Commissioner King moved to approve the agenda to include the addition of Item 10.B. and the amendment to Item 4.C.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

2. Consent Agenda

- A. Approval of minutes of the September 6, 2011 regular meeting
- B. Approval of Proposed Addition to the State Secondary Road System

Hunters Ridge Subdivision: Foxcroft (SR 2553 Ext.)

BACKGROUND:

The North Carolina Department of Transportation has received petitions requesting the following street be placed on the State Secondary Road System for maintenance.

Hunters Ridge Subdivision: Foxcroft Drive (SR 2553 Ext.)

DOT has determined that the above street is eligible for addition to the state system.

RECOMMENDATION/PROPOSED ACTION:

NCDOT recommends that the above named street be added to the State Secondary Road System. County Management concurs. Approve the above listed street for addition to the State Secondary Road System.

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

BACKGROUND:

DATE OF ACCIDENT	August 9, 2011
VEHICLE	2008 Ford Crown Victoria
VIN	2FAHP71V38X166355
FLEET #	FL309
DEPARTMENT	Sheriff Office
SETTLEMENT OFFER	\$10,488.86
INSURANCE COMPANY	Travelers

This is a total loss settlement offer.

RECOMMENDATION/PROPOSED ACTION:

Management recommends that the Board of Commissioners:

1. declare the vehicle described above as surplus
2. authorize the Risk Manager to accept \$10,488.86 as settlement
3. allow Travelers Insurance to take possession of the wrecked (surplus) vehicle.

- D. Approval of Scheduling a Public Hearing and Consideration of a Resolution of Intent to Close an Unnamed Right-of-Way Off Cypress Lake Circle (SR 2307) as Recorded in Plat Book 118, Page 99 in the Cumberland County Registry

**BACKGROUND:**

Property owners Mr. and Mrs. Michael Kidd, Mr. and Mrs. Marion S. Faircloth Jr. and George F. Norton III petitioned that an unnamed right of way off of Cypress Lake Circle (SR2307) located in Grays Creek Township be closed.

The Department of Transportation confirms that this unnamed right of way off Cypress Lake Circle (SR 2307) is not a State maintained road and has no objection to the abandonment. The Fire Marshall does not object. The Planning Department recommends approval of the closing provided the following conditions are complied with:

1. The right-of-way area is recombined at a minimum with the property indentified by PIN: 0432-58-2038 and that a joint driveway easement be provided by both lots (PIN:0432-58-2038 & 0432-58-3139) on the existing driveway location to both lots. (Taxpayer has agreed to provide a new access from this lot to Cypress Lake Circle.)
2. The joint driveway easement will ensure access for corner lot to the existing driveway if property is sold at some future date.
3. The recommendation to include only the two properties stated previously is if the owners of the two other adjacent properties (PIN: 0432-57-3900 & 0432-58-4073) have been informed, are in agreement, and do not want to claim any of the right-of-way land area.
4. The plat would need to include all the properties to be recombined with the street right-of-way.
5. The recombined plat should reflect that the correct street name is Cypress Lake Circle and not Cypress Lakes Circle.

Pursuant to G. S. 153A-241, if the Board desires to honor the request, the Board must declare its intent to close that unnamed right of way off Cypress Lake Circle and call for a public hearing on the matter. The resolution will (1) authorize the Board to set a public hearing to consider whether to close that unnamed right of way off Cypress Lake Circle, (2) direct that notice be published once a week for four successive weeks before the hearing, and (3) direct that a notice of the closing and public hearing be prominently posted in at least two places along the street during that time. Staff will also mail a copy of the notice to the other property owners adjoining said unnamed right of way off Cypress Lake Circle.

CUMBERLAND COUNTY

NORTH CAROLINA

**RESOLUTION OF INTENT TO CLOSE PUBLIC ROAD**

AND CALL FOR PUBLIC HEARING ON THE QUESTION

WHEREAS, Mr. & Mrs. Michael Kidd, Mr. & Mrs. Marion S. Faircloth Jr. and George F. Norton HI submitted a petition to the Cumberland County Board of Commissioners (the "Board") to close an unnamed right of way off of Cypress Lake Circle located in Grays Creek Township, Cumberland County; and

WHEREAS, it appears that such public street is not under the control of the North Carolina Department of Transportation: that no person would be deprived of reasonable means of ingress and egress to his or her property by such closing; and that such closing would therefore not be contrary to the public interest;

NOW, THEREFORE, BE IT RESOLVED, that the Board will consider the issue of whether to close the following public street in accordance with North Carolina General Statute, Section 153A-241:

Please see legal description below of the said unnamed right of way off Cypress Lake Circle.

AND BE IT FURTHER RESOLVED, that the Board calls for and shall hold a public hearing on the question of the closing of such street on the 17<sup>th</sup> day of October, 2011 at 6:45 p.m. in the Commissioners Meeting Room (Room 118), First Floor, New Courthouse, 117 Dick Street, Fayetteville, North Carolina. The Board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual's property rights.

AND BE IT FURTHER DIRECTED, that notice of consideration of whether to close said street and of the public hearing on such matter shall be published once a week for four successive weeks before the hearing in a newspaper of general circulation in Cumberland County and posted in at least two places along the street during the time; and that a copy of this resolution shall be sent by mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed.

LEGAL DESCRIPTION

Gooden & Associates, Inc.  
1745 Cypress Lakes Road  
Hope Mills, NC 28348  
Phone (910) 223-7766  
Fax (910) 223-7788

Right of Way for Lot 21  
0.32 Acres  
Grays Creek Township  
Cumberland County, NC  
6/25/2007

BEGINNING at an Existing Concrete Monument located in the western right of way margin of Cypress Lakes Circle, (S.R. 2307); said existing concrete monument being the eastern most corner of Lot # 20 as shown on plat entitled "Cypress Lakes, Section One" and being recorded in Plat Book 36 Page 64 and also being shown on plat



entitled "Boundary Survey Cypress Lakes, Being Lot 21, Section 1" as recorded in Plat Book 118 Page 99; said existing concrete monument also being the northeast corner of and unnamed street;

And runs thence with the northern margin of said unnamed street and leaving said Cypress Lakes Circle, S 54° 22' 28" W 109.92 feet to an existing concrete monument; thence with a cul-de-sac with a radius of 50.00 feet and length of 46.67 feet and chord bearing and distance of S 80° 46' 02" W 44.99 feet to an existing concrete monument; thence with said cul-de-sac with a radius of 50.00 feet and length of 78.26 feet and chord bearing and distance of S 09° 11' 19" W 70.51 feet to an existing iron stake; thence with said cul-de-sac with a radius of 50.00 feet and length of 78.29 feet and chord bearing and distance of S 80° 30' 37" E 70.53 feet to an existing concrete monument; thence with said cul-de-sac with a radius of 50.00 feet and length of 46.59 feet and chord bearing and distance of N 27° 56' 18" E 44.92 feet to an existing concrete monument; thence leaving said cul-de-sac with the southern margin of said unnamed street, N 54° 22' 28" E 110.00 feet to an existing concrete monument located in the western right of way margin of Cypress Lakes Circle; said existing concrete monument being the northeast corner of Lot # 19 as shown on the above referenced plat; thence with the western right of way margin of said Cypress Lakes Circle, N 35° 42' 00" W 60.00 feet to the point of beginning and containing 0.32 Acres.

The above tract being shown as an unnamed street as shown in Plat Book 36 Page 64 and Plat Book 118 Page 99 of the Cumberland County, North Carolina Registry.

#### RECOMMENDATION AND PROPOSED ACTION:

That the Board of Commissioners consider adoption of the resolution calling for a public hearing and declaring the Board's intent to consider the petition to close that unnamed right of way of Cypress Lake Circle.

- E. Approval of Community Development Housing Rehabilitation Program  
Exception to the Conflict of Interest Rule

#### BACKGROUND:

Community Development (CD) has received an Intake Application from Richard Bobbitt who is the grandfather of Tamika Avery, Office Support for CD. Mr. Bobbitt is 88 years old and temporarily resides in a rehabilitation facility in Fayetteville. He owns the residence located at 3723 A. B. Carter Road, Fayetteville, North Carolina 28312, and in order for him to return and occupy his home, certain accessibility modifications must be made to the home. Based on program requirements and a preliminary title opinion, he appears to be eligible for assistance under our housing rehabilitation program.

Thanena Wilson, Community Development Director, will insure that the decision-making process used for this application is the same impartial and objective process used in all other such applications for these services. A legal opinion provided by the County Attorney's Office states that granting assistance to the applicant would not result in a conflict of interest in violation of State law or County ordinance, provided

that the staff person: 1) reaps no direct or indirect economic gain from this transaction; 2) has disclosed on the record the nature of the conflict; 3) does not engage in deliberations concerning the matter; 4) disqualifies herself from acting on the application; and 5) does not communicate regarding the matter with anyone who will make a decision about the application.

**RECOMMENDATION AND PROPOSED ACTION:**

This issue is being presented to the Board as matter of disclosure for public record. No action is needed.

- F. Approval of a Proclamation Observing October 2-8, 2011 as “National 4-H Week” in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

**PROCLAMATION**

WHEREAS: Cumberland County’s 4-H members, volunteers, staff and families are observing National 4-H Week, October 2 – 8, 2011; and

WHEREAS: 4-H is an educational youth development program of North Carolina Cooperative Extension, North Carolina State University, North Carolina A&T State University, and the United States Department of Agriculture, and is supervised on the county level by the 4-H staff along with the help of local 4-H volunteers who are outstanding men and women in their communities; and

WHEREAS: 4-H youth are a living, breathing, culture-changing Revolution for doing the right thing, breaking through obstacles and pushing our country forward by making a measurable difference right where they live; and

WHEREAS: 4-H members, performing educational learn-by-doing projects, put into practice new knowledge and skills as they strive “To Make the Best Better”; and

WHEREAS: The citizenship and leadership training which 4-H members receive in this program is a valuable asset to our democratic way of life; now

THEREFORE: We, the Board of County Commissioners of Cumberland County, do hereby proclaim October 2–8, 2011 as “NATIONAL 4-H WEEK” in Cumberland County, celebrating the uncommon commitment of 4-H’ers and recognizing the confidence, passion and practical skills that prepare them to step up to the challenges of

our complex, changing world, urge all of our citizens to encourage and support the work of the 4-H Youth Development Program.

G. Budget Revisions:

(1) Health

Revision in the amount of \$123,250 to establish a new organization for Diabetes Education Clinic recognizing funds received from Kate B Reynolds Grant Fund of \$110,000, state funds of \$250, clinic fees of \$10,000 and Medicaid revenue of \$3,000 and creating one full-time and two part-time positions. (B12-073) Funding Source – Grant, State and Fees

MOTION: Commissioner Faircloth moved to approve all consent agenda items 2.A. through 2.G.(1)

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

3. Public Hearings

Mr. Martin explained the Board of Commissioners' procedures for public hearings.

**Contested Rezoning Case**

- A. Case P11-22: Rezoning of 23.78+/- acres from A1 Agricultural to R15 Residential, or to a more restrictive zoning district; located on the northwest side of Ramsey Street northeast W Reeves Bridge Road; submitted by W. Stan Taylor (Trustee) on behalf of KM Taylor Family Trust (owner)

**RECOMMENDATION/PROPOSED ACTION:**

Joint Planning Board members present at the May 17, 2011 meeting voted to recommend denial of R20 Residential District and approval of R40 Residential District. The motion passed by a vote of 5 to 3.

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Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd explained the area is served by Linden water and wastewater disposal is by septic tank systems. In response to questions posed by Commissioner Keefe, Mr. Lloyd stated Linden water is adequate to handle the development and if there was further development in the area, the developers would be required to coordinate with water suppliers prior to moving forward. Mr. Lloyd also stated in order for a development to receive R15 or greater, there would need to be both public water and sewer. Mr. Lloyd

responded to additional questions regarding density, and septic/sewer and public water requirements under R15, R20, and R40.

This is the duly advertised public hearing set for this date and time. Chairman Edge opened the public hearing. The Clerk to the Board called the following speakers:

Stan Taylor – Mr. Taylor appeared in favor and stated he and his siblings inherited the land and are looking for an opportunity to sell it to someone locally. Mr. Taylor stated he was assured that this would be a high-end development with no mobile home parks, and the development would provide a good tax base for the community.

Malcolm McFadyen – Mr. McFadyen appeared in favor and stated he is asking to resubmit as an R20. Mr. Taylor offered assurances about the proposed development and summarized the situation by stating that planning staff recommended approval of R20, the Joint Planning Board vote in opposition to R20, the proposed development is consistent with the 2030 Land Use Plan requirements, the development will be on a major thoroughfare with a 250 foot right-of-way, it adjoins R20, all lots will perk, and the Planning Board representative from Linden voted in favor of R20.

Nick Angelone – Mr. Angelone appeared in opposition and stated the proposed development boils down to a matter of density and overcrowding. Mr. Angelone stated zoning came to Linden last in Cumberland County and the Woodlands Subdivision was already in place with no choice for zoning. Mr. Angelone stated the board at that time told people zoning was for their protection and that protection is needed now.

Diane Wheatley – Ms. Wheatley appeared in opposition and stated the proposed development is directly across from the property on which she and her husband have resided for over twenty years. Ms. Wheatley stated the area is country and lots across the street are one to two acres, even if zoned R20. Ms. Wheatley stated the area is not prepared for the additional people or cars, the schools are already overcrowded, and eighty to one hundred-twenty more septic tanks would be added to the number of septic tanks that are already failing. Ms. Wheatley suggested that an environmental study be conducted of the lake behind the property to see how it would be affected by the proposed development because the area should stay environmentally sound.

There being no further speakers, Chairman Edge closed the public hearing.

Mr. Lloyd responded to questions and clarified that the comprehensive plan incorporates the land use policy plan, which specifically states in order to increase density greater than R20, public sewer would be required. Commissioner Council asked whether there were compelling reasons for R40 rather than R20. Mr. Lloyd stated the Joint Planning Board's reasoning had to do with public sewer, the nature of

the area in general, and keeping the area less dense under R40. Mr. Lloyd reviewed the choices for action by the Board and advised that the conditions as stated by the developer are irrelevant and nonbinding, and would only be applicable under conditional zoning.

MOTION: Commissioner King moved to follow the recommendation of staff and zone the property R20.

SECOND: Commissioner Evans

DISCUSSION: Commissioner Keefe stated the area is obviously rural and surrounded by A1, and to push R20 without conditions would give little consideration to the lives of the homeowners. Commissioner Council stated she did not understand the opposition to R20 because the Town of Linden representative stated the land was perfect for R20, the land next door to property was already zoned R20, and the land has the area necessary for septic tanks. Commissioner King stated if water is present, the Board has historically gone up to R20, and the subject property is located in an area poised for growth.

Chairman Edge asked if there was a possibility of drainage and seepage of septic tanks into the lake. Mr. Lloyd stated the possibility exists and should there be a complainant, the situation would be addressed and monitored by both the Health Department and the N.C. Department of Environment and Natural Resources (DENR).

VOTE: FAILED (3-4) (Commissioners King, Evans and Council voted in favor; Commissioners Faircloth, Edge, Melvin and Keefe voted in opposition.)

MOTION: Commissioner Council moved to follow the recommendation of the Joint Planning Board for R40.

SECOND: Commissioner Keefe

VOTE: PASSED (5-2) (Commissioners Faircloth, Edge, Council, Melvin and Keefe voted in favor; Commissioners King and Evans voted in opposition.)

### **Other Planning Matters**

#### **B. Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update**

##### **BACKGROUND:**

During 2002 the County and each of the municipalities became involved in the preparation of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan. Preparation of this Plan fulfills statutory requirements of the Disaster Mitigation Act of 2000 and Senate Bill 300, as well as protects the health, safety, and economic security of County residents by reducing the impacts of natural hazards; proves the County and it's municipalities are eligible for government aid and grant programs

and provides the residents an opportunity to participate in activities addressing mitigation of possible hazards; provides or speeds recovery and redevelopment following future disaster events; will reduce future vulnerability through smart development and redevelopment; and demonstrates local governments' commitment to hazard mitigation principles.

The original Plan (adopted by Board of Commissioners on April 3, 2006) was a five year Plan and had to be updated in the Year 2011 per requirements by Federal Emergency Management Agency (FEMA). The Plan updates included:

1. Identifying and Profiling Hazards - Includes the removal of two hazards (volcanoes and tsunamis) because they have no impact on Cumberland County due to geographic location and geology. Also hazards that the County experiences was updated to include all hazards that occurred between the original Plan and June 2010. Does not include the tornadoes that occurred in April 2011.
2. Mitigation Strategies (3 strategies) - Remain the same as the original Plan.
3. Actions - Each action was reviewed and indicated if it was completed, deferred, continued or deleted. Recommended the deletion of 2 actions (#6- Uniform Flood Damage Ordinance and #7 – Countywide Storm Water Ordinance).
4. Implementation; Monitoring, Evaluating, and Reporting Progress; and Revisions and Updates – No changes. Same as the original Plan.
5. Vulnerability Assessment (Current Conditions & Potential Future Conditions) - Required the most extensive updating due to annexations, incorporation of Town of Eastover (not a part of the original Plan), new construction, adoption of the new Flood Insurance Rate Maps (FIRM), and the 2010 re-evaluation.
6. Vulnerable Population - Stayed the same as the original Plan, due to no release of the 2010 Census Data by December 2010.
7. Development Trends and Projections - Update included the adoption of 2030 Growth Strategy Plan and rezonings.
8. Capability Assessment - Was updated as needed (Departments and Ordinances).
9. Technical Capability – Same as original Plan.
10. Addition of the Town of Eastover as a new jurisdiction.

The pages that affect the Unincorporated Area are pages 1 – 40 (overall Plan), pages 42 – 113 (Unincorporated Area Plan) and pages 502 – 526 (Appendix). This Updated Plan received approval from North Carolina Emergency Management and FEMA on April 4, 2011 that it met all the requirements for an Updated Multi-Jurisdictional Hazard Mitigation Plan.

A public hearing and adoption by each governing body is necessary to meet the last of FEMA's requirements. All of the municipalities with the exception of City of

Fayetteville (public hearing and adoption to be held September 26, 2011) have adopted the Plan thus far. The two resolutions for consideration after the public hearing are the Overall Hazard Mitigation Plan Update Resolution and Unincorporated Area Hazard Mitigation Plan Update Resolution. Both of these resolutions apply to the Unincorporated Area of the County.

CUMBERLAND COUNTY

NORTH CAROLINA

## RESOLUTION

WHEREAS, Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade desire to remain eligible for the State and Federal disaster relief funds in the event of a declared disaster within their jurisdiction; and

WHEREAS, Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade recognize the value of having a Plan in place for identifying, prioritizing, and mitigating potential and real hazards that could affect all sections within their jurisdiction; and

WHEREAS, the Cumberland County Joint Planning Board Staff, in conjunction with the City of Fayetteville Planning Staff, have prepared the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update and have revised the Plan as suggested by the North Carolina Division of Emergency Management after its submittal to all appropriate government entities for review and comments; and

WHEREAS, the North Carolina Division of Emergency Management has endorsed the proposed Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

NOW, THEREFORE, BE IT RESOLVED that Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade adopts the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

BE IT FURTHER RESOLVED that Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade resolve to conduct an annual review of the Plan and make revisions to all sections regarding their respective jurisdiction within the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update when new data and information becomes available, as mitigation measures are achieved, and as mitigation strategies evolve; and

FURTHER, that Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade

may update and revise the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update as it relates to their jurisdiction but does not affect any other jurisdictions. If any revision, update or amendment involves more than one jurisdiction, the updates and revisions must be approved by all of the affected governing bodies. Copies of any revision, amendment or update to the Plan by Cumberland County, the City of Fayetteville, and the Towns of Eastover, Falcon, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade must be kept on file with their Clerks, with the Cumberland County Emergency Services Department, and added to the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

FURTHER, that administrative changes, wording corrections, the hazard analysis, and vulnerability assessment or other such portions of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update, do not require additional action by the respective jurisdictions.

CUMBERLAND COUNTY

NORTH CAROLINA

#### RESOLUTION

WHEREAS, Cumberland County desires to remain eligible for the State and Federal disaster relief funds in the event of a declared disaster in the Unincorporated portion of Cumberland County; and

WHEREAS, the Cumberland County Board of Commissioners recognizes the value of having a Plan in place for identifying, prioritizing, and mitigating potential and real hazards that could affect the Unincorporated Area of Cumberland County.

WHEREAS, the Cumberland County Joint Planning Board Staff has prepared the Unincorporated Area Hazard Mitigation Plan as part of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update and have revised the Plan as suggested by the North Carolina Division of Emergency Management after its submittal to all appropriate government entities for review and comments; and

WHEREAS, the North Carolina Division of Emergency Management has endorsed the proposed Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of Cumberland County that it adopts the Unincorporated Area Hazard Mitigation Plan as part of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

BE IT FURTHER RESOLVED that the Commissioners resolve to annually review the Plan and make revisions to all sections regarding the Unincorporated Area in the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update when new



data and information becomes available, as mitigation measures are achieved, and as mitigation strategies evolve; and

FURTHER, that Cumberland County may update and revise the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update as it relates to any Unincorporated Area but does not affect any other jurisdiction. If any revision, update or amendment involves another jurisdiction, the updates and revisions must be approved by the governing body of the affected jurisdiction. Copies of any revision, amendment or update to the Plan by Cumberland County must be filed with the County Clerk, the Cumberland County Emergency Services Department, and added to the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update; and

FURTHER, that administrative changes, wording corrections, the hazard analysis, and vulnerability assessment or other such portions of the Unincorporated Area Hazard Mitigation Plan of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update, do not require additional action by the County Board of Commissioners.

**RECOMMENDATION/PROPOSED ACTION:**

The proposed action is for the Board to hold a public hearing and approve the Overall Hazard Mitigation Plan Update Resolution and Unincorporated Area Hazard Mitigation Plan Update Resolution of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update.

\*\*\*\*\*

Denise Sykes, GIS Planner, presented the background information provided above and stated 2011 is the year in which an update is required by the Federal Emergency Management Agency (FEMA). Ms. Sykes reviewed the ten updates to the plan as indicated above and stated a public hearing and adoption by each governing body is necessary to meet the last of FEMA's requirements.

Commissioner Keefe asked whether the county had a plan in place to handle purposeful, malicious, or terrorist activity. Gene Booth from the county's Emergency Management Office stated the county has an emergency operations plan that is an all-hazards or multi-hazards plan that covers hazards ranging from hurricanes to weapons of mass destruction.

This is the duly advertised public hearing set for this date and time. Chairman Edge opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Edge closed the public hearing.

MOTION: Commissioner Council moved to approve the Overall Hazard Mitigation Plan Update Resolution and Unincorporated Area Hazard Mitigation Plan Update Resolution of the Cumberland County Multi-Jurisdictional Hazard Mitigation Plan Update.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

### **Other Public Hearings**

#### **C. Community Development 2010 Consolidated Annual Performance and Evaluation Report (CAPER)**

##### **BACKGROUND:**

Community Development has prepared an abbreviated version of the draft CAPER for the 2010 Program Year. This document is available for public review and comment during the period September 6, 2011 through September 20, 2011. Copies of the draft CAPER in its entirety will be available for review in the County Commissioners office and at the Community Development office beginning September 21, 2011. Copies of the abbreviated version have been distributed to several locations throughout the County in compliance with our Citizen Participation Plan. The final CAPER is due to HUD on September 28, 2011.

The 2010 CAPER details program accomplishments and an assessment of our efforts in meeting the goals and objectives set forth in our Annual Action Plan for the period July 1, 2010 through June 30, 2011. Performance reporting meets three basic purposes: 1) It provides HUD with necessary information for the department to meet its statutory requirement to assess each grantee's ability to carry out relevant community development programs in compliance with all applicable rules and regulation; 2) It provides information necessary for HUD's Annual Report to Congress, also statutorily mandated; and 3) It provides grantees an opportunity to describe to citizens their successes in revitalizing deteriorated communities and meeting objectives outlined in their Consolidated Plan. This reporting tool assures that citizens, community groups, and other interested stakeholders in the community planning process are accurately informed of the use of these federal funds.

##### **RECOMMENDATION AND PROPOSED ACTION:**

Community Development requests that the Board of Commissioners hold a public hearing on the 2010 CAPER. No other action is necessary.

\*\*\*\*\*

Thanena Wilson, Community Development Director, reported during the past year, Cumberland County Community Development expended more than \$3.6 million assisting low and moderate income residents through the CDBG program, the HOME program, the SHIP program and EDI Special Projects. Ms. Wilson further reported

that thirty households were assisted through the housing rehabilitation and emergency repair program, and over fourteen hundred individuals were served through public services program, and partnerships. Ms. Wilson also reported that the agency assisted with economic development by the opening of IHOP in Spring Lake in partnership with Kingdom Community Development and this project created forty-eight jobs. Mr. Wilson reported Community Development continues to participate in homelessness initiatives, fair housing activities, and affordable housing development activities. Ms. Wilson stated the final CAPER is due to HUD September 28, 2011.

This is the duly advertised public hearing set for this date and time. Chairman Edge opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Edge closed the public hearing.

#### Items of Business

4. Consideration of the Cumberland County Facilities Report and Recommendation:

A. Consideration of Approval of PWC Request for Grant of a Utility Easement at New Century Middle School Site

**BACKGROUND:**

PWC has a policy of requiring landowners to grant an easement to the City of Fayetteville for the installation, maintenance and improvement of any utility service provided by PWC to the landowner's property. PWC is providing water and sewer service to the New Century Middle School site.

**RECOMMENDATION/PROPOSED ACTION:**

Facilities Committee recommends approval of the Utility Easement granting the easement and authorization of the Chairman and Clerk executing on behalf of the County.

\*\*\*\*\*

Rick Moorefield, County Attorney, advised this item is a standard utility easement request by the PWC for utilities at the New Century Middle School site.

**MOTION:** Commissioner Keefe moved to approve the Utility Easement granting the easement and to authorize the chairman and clerk to execute on behalf of the county.

**SECOND:** Commissioner King

**VOTE:** UNANIMOUS (7-0)

B. Consideration of Approval of Offer to Purchase a House Located at 911 West Mountain Drive, Fayetteville, and to Publish Notice of Upset Bid

BACKGROUND:

Thanena Wilson, Director of Community Development, has negotiated an offer to purchase county-owned surplus property at 911 West Mountain Drive, Fayetteville with James McNeil. This property is a house and lot acquired through a tax and Community Development program foreclosure and the buyer is a qualified buyer under the program's guidelines. The offer is for \$3,000.00 with a down payment of 5% and with the balance of \$2,850.00 to be paid at closing. This property has been heavily vandalized and the structure located on it is in such disrepair that Community Development was seeking to demolish it just prior to this offer. The property has some title issues. The property has a listed tax value of 42,400.00 for the structure and 9,000.00 for the land. This offer, if approved, shall be subject to advertisement in the newspaper with a ten-day upset period.

RECOMMENDATION/PROPOSED ACTION:

This comes as a recommendation from the Facilities Committee and Community Development. Approve the Offer to Purchase, subject to the statutory notice and upset provisions, authorize the Department Head to sign the contract on behalf of the County and the Chairman to execute and deliver a deed to the appropriate party at the completion of the upset period and at the direction of legal.

\*\*\*\*\*

Mr. Moorefield reviewed the background information as provided above.

MOTION: Commissioner Keefe moved to approve the Offer to Purchase, subject to the statutory notice and upset provisions, to authorize the Department Head to sign the contract on behalf of the county, and the chairman to execute and deliver a deed to the appropriate party at the completion of the upset period and at the direction of legal.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (7-0)

C. Report from the County Attorney on Developments Regarding the Granting of an Easement Across the County's Landfill Project to the City of Fayetteville for the Cape Fear River Trail

Mr. Moorefield stated the City of Fayetteville requested that the county grant an additional easement across the county's property which fronts the river and is a portion of the property comprising the Anne Street landfill. Mr. Moorefield also stated this extension would bring the trail closer to the county's landfill operations and into an area of the county's landfill property which is marked for future fill for the landfill's operation. Mr. Moorefield further stated when the request was presented to the Facilities Committee on

September 1, 2011, it was felt that all issues had been worked out by city and county staff; however, some questions have been raised since that time.

Mr. Moorefield provided background information on the previous easement granted to the city which was intended to be 120' in width and located on approximately 15 acres adjoining the river on one side and the working borrow pit on the other side. Mr. Moorefield stated that the extension requested by the city encroached into the area of the landfill operation from which future fill dirt may be needed. Mr. Moorefield also stated with regard to the easement extension, the Solid Waste Department has calculated 7,000 cubic yards of fill dirt would be lost at a value of \$38,000. For this reason, the city had been offered the easement subject to the conditions that the county would reserve the right to mine the fill dirt in the future if needed, the city could provide the lost fill dirt from another location, or the city could just pay the value of the fill dirt. Mr. Moorefield stated city staff indicated the city elected to pay the \$38,000 and this was what was presented to the Facilities Committee. Mr. Moorefield stated at present, there is still some question as to whether the easement that was granted to the city is what the city actually wanted because some city staff had indicated the city never wanted the amount of easement that was granted. Mr. Moorefield stated he has worked to get the matter resolved and at this point, the city manager has asked that the matter be discussed at the September 29, 2011 joint city/county meeting.

Mr. Martin explained contact with an assistant city manager indicated the city has access to fill dirt that they have offered to bring to the county and, by the time of the joint city/county meeting, the assistant city manager thinks the city may have provided the county with half of the 7,000 cubic yards of fill dirt. Mr. Martin clarified that the county has always accepted the replacement fill dirt but it was the city's choice initially to pay the cost of the dirt. Mr. Martin stated the Solid Waste Department has located a place for the city to deposit the dirt.

Commissioner Keefe stated as chairman of the Facilities Committee, he had no problem taking the matter to the joint city/county meeting for further discussion. The consensus of the board was to take no action at this time.

D. Presentation Regarding the Installation of Solar Panels for New Century Elementary School

**BACKGROUND:**

Management and county attorney met with Tim Kinlaw from the Cumberland County School System, Robbie Ferris, and David Trego from the Public Works Commission on August 29, 2011, in advance of the September 1, 2011, meeting of the Facilities Committee to discuss the proposal by Robbie Ferris for the installation of solar panels on the New Century Elementary School and branch library. At that meeting staff was told that the transaction would involve the county's granting an easement to PWC to use the roof of the library building for the installation of solar panels to produce electricity to be sold to Lumbee River EMC as part of PWC's statutory obligation to generate a certain percentage of the total electricity it produces from renewable sources. Likewise, the Board of

Education was to grant an easement to PWC for the use of the rooftops of the remainder of the school buildings for this purpose.

Mr. Kinlaw disclosed that the school system would initially receive \$5,000 annually for this transaction and that the real consideration for the school system was that the roof would be maintained by PWC and this “green” project would be used as a demonstration for curriculum purposes. Mr. Kinlaw further disclosed that the project would repay \$85,000 in construction costs for preparing the roofs for these panels when the school and library were built. Deputy County Manager Amy Cannon asked if this amount would be paid into the fund to retire the indebtedness. Mr. Kinlaw stated that it could be handled this way.

This project was fully discussed and based on that discussion, the county attorney was of the opinion that the grant of this easement would comply with the requirements of the property disposition statutes and posed no risk to the county because PWC was a governmental agency and would be obligated to maintain the roof as long as the panels were in place. Management concluded that maintenance of the roof and reimbursement of the additional construction cost was sufficient consideration for the transaction even without the county receiving any further compensation for the use of its roof.

Management and county attorney understood that this was a complex transaction involving the financing of the project and the selling of income tax credits available under the IRS Code; however, the county’s position was straightforward with respect to granting the rooftop rights and expecting the roof to be maintained. Mr. Kinlaw reported that the transaction had already been approved by the Board of Education.

Based on these discussions, and without having received any of the documents for the transaction, the project was presented to the Facilities Committee on September 1, 2011, as set out in the following excerpt from the draft minutes of that meeting:

James Martin, County Manager, introduced Tim Kinlaw from the Cumberland County School System, Robbie Ferris, and David Trego from the Public Works Commission. Tim Kinlaw gave a brief explanation of the project. Mr. Kinlaw stated they are simply entering into an agreement with PWC to give them an easement to use the roof and PWC will be responsible for all the costs. Rick Moorefield, County Attorney, stated that if the committee wishes to recommend the solar power project, staff could work out the necessary details with the understanding that the project would be at no cost to the county, provide no revenue to the county, and the roof would be maintained by PWC as long as the panels are in place.

MOTION: Commissioner Council moved to recommend the solar panel project as described by the county attorney.  
SECOND: Commissioner Faircloth  
VOTE: UNANIMOUS (3-0)

Upon receiving and reviewing the documents for this transaction on Tuesday, September 13, 2011, the county attorney advises that the transaction is not as reported to staff and the Facilities Committee in the following respects:

1. The county is not granting an easement to PWC. The county has been asked to amend the lease agreement with the Board of Education by transferring all rights in the building's rooftop to the Board of Education with the understanding that the System will be installed, owned and operated by third parties, initially New Century Solar, LLC ("NCS") and New Century Solar II, LLC ("NCSII"), through arrangements with PWC, and that this Amendment inures to the benefit of PWC, NCS, NCSII and all other parties claiming by, through or under the Board of Education, whether directly or indirectly (a "Benefitted Party"), and all such Benefitted Parties are intended third party beneficiaries of this Amendment and the rights granted hereby.
2. The county will remain responsible to maintain its roof after the installation of the solar panels.
3. If there is an agreement for some entity to re-pay the \$85,000 in additional construction costs resulting from the project, it has not been provided.
4. The proposed power purchase agreement is between New Century Solar II, LLC, and North Carolina Electric Membership Corporation. This is a family of corporations which supports all of the state's 26 electric membership cooperatives.

This new information is being provided to the Board because the proposed transaction is not consistent with the details presented to staff or to the Facilities Committee. The county attorney advises that his insistence on the roof maintenance agreement arises out of his concern that anytime something is affixed to a roof, the need for maintenance is increased and, further, that the installation of photovoltaic cell technology on the roof will make routine maintenance activities more difficult and more expensive. This project has already increased the cost of construction of this school and library by \$85,000 and will likely increase the cost of roof maintenance for as long as the system remains on the roof, which is to be determined by the owner of the System, not the owners of the building. The Board of Education is receiving at least \$5,000 per year to offset its potential costs. The county is receiving nothing.

**RECOMMENDED/PROPOSED ACTION:**

If the Board is comfortable with absorbing any potential roof maintenance costs then the county's grant of the rights in the rooftop to the Board of Education for the benefit of a private company can be done; however, it is difficult to characterize the nature of the interest being transferred. The creation of the rights in third party beneficiaries not parties to the transaction further complicate this characterization.

The agreements make it clear that the System shall at all times remain personal property and shall not become a fixture and thus a part of the real property. Although not stated in any agreement that has been provided to the county attorney, New Century Solar, LLC, maintains that it is also entitled to the benefit of the requirement in the existing lease between the county and Board of Education that the county is required to replace the library building if it should be destroyed by fire or other casualty. That is not a characteristic associated with the granting of an easement or a license. Under North Carolina law, an easement is a right to make some use of the land owned by another without taking a part thereof, thus, this transfer does have some of the characteristics of an easement. The county does have the authority to grant easements under N.C.G.S. 160A-273; however, that statute also requires that a grant of air rights over county property for the purpose of erecting a permanent structure other than utility wires or pipes shall be treated as a sale of real property.

All of these factors suggest to the county attorney that the transfer of these rights in the rooftop should cautiously be regarded as a sale of real property to a private company, requiring advertisement subject to upset bid. This process is objectionable to New Century Solar, LLC, but the county attorney does not believe it is possible that any other entity would be interested in this transaction. If there was a bid, New Century Solar, LLC, would simply have to bid higher.

The decision really boils down to whether the Board believes there will be any increased roof maintenance costs to the county, and if so, whether the use of this “green” project as a model and demonstration tool for curriculum purposes is worth that potential cost. The Board of Education has apparently decided that it is.

\*\*\*\*\*

Mr. Moorefield reviewed the background and new information as provided above. Mr. Moorefield advised the matter was being provided to the Board because the proposed transaction was not consistent with the details presented to staff or to the Facilities Committee. Mr. Moorefield stated he had back and forth communications with the attorney putting together the transaction and if the Board was comfortable with absorbing any potential roof maintenance costs, then he was comfortable with the county’s granting the rights in the rooftop to the Board of Education for the benefit of a private company. Mr. Moorefield explained the transaction did not involve the PWC and the new owner/operator of the facility would be New Century Solar, LLC, an affiliate of Ronnie Ferris’ architectural firm. Mr. Moorefield also explained other documents could be forthcoming but at present he was comfortable granting the county’s rights in the rooftop to the school system.

Commissioner Keefe stated as chair of the Facilities Committee, he was not comfortable taking action at this time due to the differences in what was presented, what was intended in the present document, and until such time as the county would not be held responsible for rooftop maintenance costs. Mr. Moorefield advised under the present document, the county would remain responsible for maintaining the roof at what he feels would be an



additional cost to the county. Commissioner Faircloth stated the new information negates the vote he made at the Facilities Committee meeting in favor of the solar panels. The consensus of the board was to take no action.

5. Consideration of the Cumberland County Policy Report and Recommendation:
  - A. Consideration of Approval of a Resolution and Memorandum of Understanding Between the Civic Center and the County of Cumberland Relating to Personnel Administration of Civic Center Employees

**BACKGROUND:**

On June 28, 2011, the Cumberland County Civic Center Commission unanimously passed a resolution to have Civic Center employees subject to the personnel administration of Cumberland County. The Civic Center Commission desires to enter into a Memorandum of Understanding with the County of Cumberland for this personnel administration. The Memorandum of Understanding would have the affect of formalizing the current practice of having Civic Center employees subject to the County's personnel administration system for all purposes, including disciplinary actions and employee grievances. The Memorandum of Understanding provides that the Civic Center Commission retains the authority to hire, discipline, and remove the manager of Crown Center. The proposed Memorandum of Understanding, if adopted, will provide uniformity and consistency in personnel administration for county employees and the employees of the Civic Center. On September 1, 2011, the Policy Committee adopted the staff recommendation that the Board of Commissioners enter into a Memorandum of Understanding with the Civic Center and voted to recommend adoption by the Board of Commissioners.

CUMBERLAND COUNTY

NORTH CAROLINA

**A RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF  
COMMISSIONERS RELATING TO PERSONNEL ADMINISTRATION OF  
CIVIC CENTER EMPLOYEES**

WHEREAS, the Cumberland County Civic Center Commission, as established by Session Law 1991-27, is empowered to employ a manager and other employees, and

WHEREAS, the County of Cumberland has a personnel ordinance and policies which provide for a system of personnel management and administration for the employees of the County, as authorized in North Carolina General Statutes 153A-92 et. seq., and

WHEREAS, the Cumberland County Board of Commissioners desires to provide a comprehensive employment system to the employees of the Cumberland County Civic Center,

NOW THEREFORE, THE Cumberland County Board of Commissioners hereby resolves that:

The County of Cumberland will, by and through its Personnel Department, provide a uniform system of personnel administration for the employees of the Cumberland County Civic Center under the rules, regulations and procedures applicable to Cumberland County Employees. This agreement does not affect the authority of the Cumberland County Civic Center Commission to hire, discipline, and remove the manager of the Crown Center.

**RECOMMENDATION:**

Adopt the resolution authorizing the Chairman to sign the Memorandum of Understanding with the Civic Center Commission for personnel administration of employees of the Civic Center.

\*\*\*\*\*

Phyllis Jones, Assistant County Attorney, reviewed the background information as provided above.

**MOTION:** Commissioner King moved to adopt the resolution and authorize the Chairman to sign the Memorandum of Understanding with the Civic Center Commission for personnel administration of employees of the Civic Center.

**SECOND:** Commissioner Council

**DISCUSSION:** Commissioner Faircloth asked what precipitated this request on the part of the Civic Center Commission. Ms. Jones stated earlier in the year, the Civic Center Commissioner undertook a review of its bylaws and determined that it did not want to hear employee grievances. Ms. Jones stated the Civic Center Commission did want to reserve its right to hire, fire, and discipline the general manager. Ms. Jones and Mr. Martin responded to additional questions and discussion followed.

**VOTE:** UNANIMOUS (7-0)

**6. Presentation and Update on the Cumberland County 2011-2012 Strategic Plan**

**BACKGROUND:**

The Board of Commissioners approved the 2011-2012 Strategic Plan on April 18, 2011. The report is an update on the progress made so far in meeting the goals, objectives and actions steps outlined in the plan.

**RECOMMENDATION/PROPOSED ACTION:**

For information purposes only.

\*\*\*\*\*

Sally Shutt, Communication and Strategic Initiatives Manager, provided the update on the Cumberland County 2011-2012 Strategic Plan incorporated herein as Attachment A. Ms. Shutt stated the next update will occur in January 2012.

## 7. Presentation on the Board of Commissioners Redistricting Plan

### DISCUSSION:

In May and June of this year, the Board was presented data on the preliminary analysis of redistricting. Data was presented on four suggested alternatives. In July, Commissioner King asked that an alternative be developed to shift Cross Creek 22 Precinct, containing Reid Ross School, from District 2 to District 1. That has been added as an alternative by also shifting Cross Creek 2 and Brentwood from District 1 to District 2.

Matt Rooney presented a power point presentation to view and compare the alternative district boundaries. A summary of the data is presented below. It is crucial that the redistricting plan be submitted to the Department of Justice in October to avoid delay in any filing for commissioner seats next year.

### Impacts on Population:

All five alternatives produce deviations that are within the 10% allowance and are shown in rank order from smallest to largest deviation as follows:

Alternative A	0.25%
Alternative A with Cross Creek 22 (Reid Ross) shifted to District 1	0.67%
Alternative B	5.10%
Alternative D	5.64%
Alternative C	8.29%

Either Alternative A produces a near perfect population distribution.

The impact on the population, and presumably voters, is also revealed by the deviation from ideal population for each district because the deviation is a measure of how much the population shift exceeds the legally required ideal population in each district. Thus Alternative A shifts the least number of people from District 2 to District 1 and Alternative C shifts the greatest number of people from District 2 to District 1.

### Impacts on Racial Demographics:

There is not a significant difference in the racial demographics among any of the alternatives and District 1 as it currently exists. The rounded percentage for each of the original four alternatives is: white-39%, African-American-48%, and other-13%. Alternative A shifting Cross Creek 22 (Reid Ross School) to District 1 is slightly different with the percentages being: white-40%, African American-47%, other-13%.

Each of the original four alternatives increases the percentage of whites in District 2 from the current 57% to 60%; decreases the percentage of African-Americans in District 2 from the current 31% to 29%; and decreases the percentage of others from the current 12% to 11%. Alternative A shifting Cross Creek 22 (Reid Ross School) to District 1

Since these percentages are not significantly affected, the racial demographics do not suggest any alternative as preferable to the others.

#### Impacts on Voter Registration:

Like the racial demographics, there is not a significant difference among any of the original four alternatives with regard to voter registration by race. The percentages for each alternative are shown in rank order from largest to smallest percentage of registered African-American voters as follows:

Alternative C: African-American voters-58.1%, white voters-30.2%, other voters-11.7%  
 Alternative B: African-American voters-58.0%, white voters-30.5%, other voters-11.5%  
 Alternative A: African-American voters-57.9%, white voters-30.6%, other voters-11.5%  
 Alternative D: African-American voters-57.8%, white voters-31.0%, other voters-11.2%  
 Alternative A with Cross Creek 22 (Reid Ross School) shifted to District 1:  
 African-American voters-57.3%, white voters-30.7%, other voters-11.4%

Since these percentages are not significantly different, voter registration does not suggest that any alternative is preferable to the others.

#### Split Precincts:

None of the alternatives create any split precincts.

#### Affected Precincts:

Other than the split precincts, each of the alternatives shifts Cross Creek 25, Cross Creek 27 and Montibello Precincts from District 2 to District 1. That leaves only five precincts that are affected differently by the alternatives. Table 1 shows the District in which each affected precinct is located under each alternative.

Table 1  
District Location of Each Affected Precinct Under Each Alternative

Precinct	Current District	Alt. A District	Alt. B District	Alt. C District	Alt. D District	Reid Ross District
Westarea 1	split	1	1	1	1	1
Cross Creek 23-1	split	2	2	2	2	2
Cross Creek 22 (RR)	split	2	2	2	2	1
Cross Creek 9	split	1	1	1	1	1
Eastover 1	split	2	2	2	2	2
Cross Creek 2	split	1	1	2	1	2
Judson-Vander	split	2	2	2	2	2
Auman 1	split	2	2	2	1	2
Cross Creek 28-1	split	1	1	1	1	1
Cross Creek 28-2	split	1	1	1	1	1

Cross Creek 25	2	1	1	1	1	1
Cross Creek 27	2	1	1	1	1	1
Montibello	2	1	1	1	1	1
Cliffdale West 1	2	1	1	1	2	1
Cliffdale West 2	2	2	1	1	2	2
Lake Rim	2	2	2	1	2	2
Arran Hills	2	2	2	2	1	2
Brentwood	1	1	1	1	1	2

#### Voter Registration by Race and Party Affiliation:

Vice-chairman Faircloth asked that this information be provided. The attached Table 2 provides voter registration data by race and party affiliation for the original four options. We did not have the party affiliation information for the Alternative A shifting Cross Creek 22 (Reid Ross School) so that data is not included.

#### Summary of Impacts:

None of the alternatives significantly change the racial demographics of the population or voter registration as currently exists in either District. The real differences among the alternatives are the impacts on the numbers of people and precincts that may be shifted from District 2 to District 1, with Alternative A impacting the least number of people and precincts.

#### ACTION NEEDED:

Choose the preferred alternative and set a public hearing to be conducted on October 17, 2011 to receive public comment.

\*\*\*\*\*

Mr. Moorefield stated the Board is being requested to choose its preferred alternative and set a public hearing to be conducted in October. Mr. Moorefield further stated the objective for preclearance requirements is to not diminish the ability of minority voters to elect preferred candidates which are deemed by the Department of Justice to be minority candidates. Mr. Moorefield stated in this case, the objective is to ensure District 1 maintains as many of the characteristics it has had with respect to voter registration between minority and nonminority voters. Mr. Moorefield advised none of the alternatives significantly change the racial demographics of the population or voter registration as currently exists in either of the districts. Mr. Moorefield further advised the real differences among the alternatives are the impacts on the numbers of people and precincts that may be shifted from District 2 to District 1, with Alternative A impacting the least number of people and precincts.

Matt Rooney, Planning and Inspections, called attention the discussion information as provided above and displayed maps that helped identify areas within the districts. Mr. Rooney also displayed maps depicting the various alternatives, and identified roadways and boundaries for the districts and precincts. Mr. Moorefield stated one of the suggestions was for the elimination of split precincts and the alternatives as presented eliminated split precincts altogether. Mr. Moorefield called attention to Table 1 and explained the district location of each affected precinct under each alternative. Mr. Moorefield stated the redistricting plan has to be submitted to the Department of Justice in October. Questions and comments followed.

MOTION: Commissioner Edge moved to select Alternative A.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

Mr. Moorefield confirmed that the information could be distributed and the public hearing could be set.

8. Nominations to Boards and Committees

A. Animal Services Board (1 Vacancy)

BACKGROUND: The Animal Services Board had one (1) vacancy on June 30, 2011. The Fayetteville City Council's recommendation is for the reappointment of Dell Caramanno.

Commissioner Council nominated Dell Caramanno for the City of Fayetteville Resident position.

B. Cumberland Juvenile Crime Prevention Council (4 Vacancies)

BACKGROUND: The Cumberland County Juvenile Crime Prevention Council currently has four (4) vacancies. Jamarrius Hassell, Person Under Age 21 position, resigned. Recommendation is for Christopher Lindsay to serve the unexpired term. Matt Hurley, United Way or Non-Profit position, resigned. Recommendation is for Linda Blanton to serve the unexpired term. Geneva Mixon, At-Large Representative position, completed second term. Recommendation is for Stephanie Glover. Kimberly Reeve, At-Large Representative position, resigned. There is no recommendation to serve this unexpired term.

Commissioner Council nominated Christopher Lindsay, Linda Blanton, and Stephanie Glover. Commissioner Evans nominated Tavion Powell.

C. Nursing Home Advisory Board (1 Vacancy)

BACKGROUND: The Nursing Home Advisory Board will have one (1) vacancy on October 31, 2011. Norton Campbell is completing an initial term and is eligible for reappointment.

Commissioner Melvin nominated Norton Campbell.

D. Southeastern Economic Development Commission (SEDC) (1 Vacancy)

BACKGROUND: The Southeastern Economic Development Commission will have one (1) vacancy on October 31, 2011. Commissioner Ed Melvin completed his first term and is eligible for and has interest in reappointment.

Commissioner Council nominated Commissioner Ed Melvin.

E. Cumberland County Workforce Development Board (8 Vacancies)

BACKGROUND: The Cumberland County Workforce Development Board will have six (6) vacancies on September 30, 2011. Alicia R. McLean, Gwen Holloman, and Rosie G. McMillan, all Private Sector positions, are completing a first term and are eligible for reappointment. Richard Everett, Public Sector-Social Services Representative position, is completing a first term and is eligible for reappointment. Esther Acker, Community Based Organization position, is completing a first term and is eligible for reappointment. Joseph M. Smith, Labor position, is completing a first term and is eligible for reappointment. Dr. J. Larry Keen endorses the reappointment of the six individuals above.

The Cumberland County Workforce Development Board will also have two (2) vacancies on October 31, 2011. Charles Richter and Loleta Wilkerson, Private Sector positions, are completing their second term and are not eligible for reappointment. Recommendation is for David McCune, member of the FTCC Board of Trustees, and Randall Newcomer.

Commissioner Council nominated Alicia R. McLean, Gwen Holloman and Rosie G. McMillan for the Private Sector positions; Richard Everett for the Public Sector-Social Services Representative position; Esther Acker for the Community Based Organization position; Joseph M. Smith for the Labor position; and David McCune and Randall Newcomer for the Private Sector positions.

9. Appointments to Boards and Committees

There were no appointments scheduled for this meeting.

10. Closed Session:

- A. Attorney Client Matter Pursuant  
To NCGS 143-318.11(a)(3)
- B. Economic Development Matter Pursuant  
To NCGS 143.318.11(a)(4)

MOTION: Commissioner Council moved to go into closed session to consider an attorney client matter pursuant to NCGS 143-318.11(a)(3) and for an economic development matter pursuant to NCGS 143-318.11(a)(4).

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to reconvene in open session.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner King moved to adjourn.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 10:00 p.m.

Approved with/without revision:

Respectfully submitted,

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Candice H. White  
Clerk to the Board