

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
MONDAY, MAY 6, 2013 – 9:00 AM  
117 DICK STREET, 1<sup>ST</sup> FLOOR, ROOM 118  
REGULAR MEETING  
MINUTES

PRESENT: Commissioner Jimmy Keefe, Chairman  
Commissioner Jeannette Council, Vice Chair  
Commissioner Kenneth Edge (attended by telephone)  
Commissioner Charles Evans (arrived 9:03)  
Commissioner Marshall Faircloth  
Commissioner Billy King (arrived 9:08)  
Commissioner Ed Melvin  
James Martin, County Manager  
Amy Cannon, Deputy County Manager  
James Lawson, Assistant County Manager  
Rick Moorefield, County Attorney  
Sally Shutt, Public Information Director  
Hank Debnam, Mental Health Director  
Jeffrey Brown, Engineering and Infrastructure Director  
Karen Long, Crown Coliseum General Manager  
George Turner, Civic Center Commissioner Chair  
Candice H. White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Chairman Keefe called the meeting to order and announced Commissioner Edge was at home recovering from surgery and would attend the meeting by telephone.

INVOCATION AND PLEDGE OF ALLEGIANCE – Chairman Keefe provided the invocation followed by the Pledge of Allegiance to the American Flag.

Recognition of Retired County Employee: Pamela Presser – Cumberland County Department of Social Services

Commissioner Melvin recognized Pamela Presser for her years of service with the Cumberland County Department of Social Services from November 1, 1976 – January 1, 2013 and presented her with a plaque commemorating the same.

1. Approval of Agenda

MOTION: Commissioner Evans moved to approve the agenda.  
SECOND: Commissioner Melvin  
VOTE: UNANIMOUS (6-0)

2. Consent Agenda

- A. Approval of minutes of April 2, 2013 regular meeting, April 15, 2013 regular meeting, April 15, 2013 Special Meeting with FTCC Board of Trustees, and the April 18, 2013 NCACC District special meeting
- B. Approval of the April 2013 County Management and County Tax Administration Records & Retention Disposition Schedules

**BACKGROUND:**

The State Archivist and the Secretary of the Department Cultural Resources officially approved the County Management Records Retention & Disposition Schedule on April 15, 2013 and the County Tax Administration Records Retention & Disposition Schedule on April 17, 2013.

A complete copy of each of the Records Retention & Disposition Schedules for County Administration and County Tax Administration is located, respectfully, in the County Manager's Office and County Tax Administration for viewing. In addition, the Schedules are available on the Government Records Branch of North Carolina under Local Records in the Department of Cultural Resources website at this direct link:

[http://www.records.ncdcr.gov/local/County\\_Management\\_2013.pdf](http://www.records.ncdcr.gov/local/County_Management_2013.pdf)

[http://www.records.ncdcr.gov/local/County\\_Tax\\_Administration\\_2013.pdf](http://www.records.ncdcr.gov/local/County_Tax_Administration_2013.pdf)

**RECOMMENDATION/PROPOSED ACTION:**

Adopt the 2013 County Management and County Tax Administration Records Retention & Disposition Schedules and sign the attached Records Retention and Disposition Schedule agreements.

- C. Approval of Submission of 2013 Community Development Annual Action Plan

**BACKGROUND:**

As part of the HUD 5-Year Consolidated Planning process, an Action Plan must be presented each year by Community Development outlining activities to be carried out over the next program year. The 2013 Annual Action Plan is to be submitted to the U.S. Department of Housing and Urban Development (HUD) by May 15, 2013. Proposed entitlement funding for this year is as follows: Community Development Block Grant (CDBG) - \$812,657; and HOME Investment Partnership Act (HOME) - \$306,749. Competitive funding awarded in our community is as follows: Supportive Housing Program (SHP) - \$138,865; and Emergency Solutions Grant (ESG) - \$217,316. As all funding awards have not been made due to federal budget cuts, we have been advised by HUD to submit a plan that represents a 5% reduction in allocations.

The draft proposal was presented and a public hearing held at the April 15, 2013 Board of Commissioners meeting. This document has also been available at several locations throughout the County since April 12, 2013 for a 30-day citizen review and comment period. No comments have been received to date; however any comments received will be addressed by the Director and forwarded to HUD along with the Action Plan. If comments are received, responses will also be forwarded to the Board for review. A final

copy of the plan will be available through the Community Development Office beginning May 13, 2013.

RECOMMENDATION/PROPOSED ACTION:

Community Development recommends that the Board of County Commissioners approve submission of the Annual Action Plan to HUD by May 15, 2013.

D. Approval of Revised Cumberland County Smoking Ordinance

**BACKGROUND:**

In 1993, the Board of County Commissioners adopted an ordinance prohibiting smoking in all county-owned or leased buildings and vehicles and within 25 feet of the buildings. The ordinance is codified in Chapter 9.5 of the Cumberland County Code. On April 4, 2013, the Policy Committee voted to recommend the Board approve an ordinance prohibiting smoking on the grounds of designated facilities including the Department of Social Services, all facilities where Health Department services are provided, and all county library facilities.

The revised smoking ordinance as recorded below repeals the old smoking ordinance and incorporates the provisions of the old ordinance and the provisions of the proposed ordinance prohibiting smoking on designated grounds.

**RECOMMENDATION/PROPOSED ACTION:**

That the board of commissioners adopts the revised smoking ordinance as recorded below.

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS REPEALING CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY CODE AND ADOPTING A REVISED CHAPTER 9.5, ARTICLE III. SMOKING, OF THE CUMBERLAND COUNTY CODE**

WHEREAS, Cumberland County adopted an ordinance in 1993 (Cumberland County Code §9.5-91) prohibiting smoking in all county leased and owned buildings and vehicles, and within 25 feet of the entrance or exit to any public building; and,

WHEREAS, research indicates tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity; and

WHEREAS, Cumberland County wishes to minimize the harmful effects of smoking among County employees and eliminate secondhand smoke exposure for employees and the public in and on those buildings, vehicles, and grounds controlled by the County; and WHEREAS, the Cumberland County Smoking Ordinance has been codified as Chapter 9.5, Article III, Sections 9.5-90-98 of the Cumberland County Code; and

Whereas, the Board of Commissioners wishes to make a comprehensive revision of Chapter 9.5, Article III. Smoking, of the Cumberland County Code by the repeal of Chapter 9.5, Article III. Smoking, of the Cumberland County Code and the adoption of the Revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code as set forth below; and

WHEREAS, the Board of Commissioners finds the comprehensive revision of Chapter 9.5, Article III. Smoking, of the Cumberland County Code to be in the public interest and to promote the public health, safety, and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 9.5, Article III. Smoking, of the Cumberland County Code is hereby adopted.

Sec. 9.5-90. Purpose and intent.

Numerous reliable studies have found that tobacco smoke is a major contributor to indoor air pollution and have shown that breathing side-stream or secondhand smoke is a significant health hazard to nonsmokers. The Surgeon General of the United States has concluded that involuntary or passive smoking is the cause of disease, including lung cancer, in healthy nonsmokers and has estimated that involuntary smoking causes more deaths, approximately 5,000 per year, than all other airborne pollutants combined, excluding asbestos. The board of county commissioners recognizes the increasing evidence that smoke creates a danger to the health of some citizens and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present. The board of county commissioners also recognizes that research indicates that during active smoking outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity. The purpose and intent of this article is to promote the public health, safety and general welfare by prohibiting smoking within all county leased or owned buildings and vehicles and on designated grounds.

Sec. 9.5-91. Definitions.

The following terms, words, and phrases as used in this article are hereby defined as follows:

*County building* shall mean a building owned, leased as lessor, or the area leased as lessee and occupied by the County.

*Employee* shall mean a person who is employed by the County of Cumberland, or who contracts with the County or a third person to perform services for the County, or who otherwise performs services for the County with or without compensation.

*Enclosed area* shall mean the interior portion of a county owned or leased building.

*Grounds* shall refer to all unenclosed property surrounding county buildings.

*Public building* shall mean any enclosed area of any building or structure owned, leased, operated, maintained or managed, directly or indirectly, by the county.

*Smoke or smoking* shall refer to:

- (1) The carrying or holding of a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
- (2) The possession of any burning tobacco, weed or other plant product; or
- (3) The lighting of, emitting of, exhaling of the smoke of a pipe, cigar or cigarette of any kind.

Sec. 9.5-92. Smoking prohibited in public buildings and vehicles.

Smoking shall be prohibited within all public buildings and vehicles except the public areas of the Charlie Rose Agri-Expo Center. The public areas of the Charlie Rose Agri-Expo Center shall be limited to the lobby and the exhibit floor of the building. No smoking is to be allowed in the office portions of the Agri-Expo Building or in the restrooms, concession stands, or ticket booths. The Civic Center Commission is authorized and directed to develop rules and policies to regulate smoking at the Charlie Rose Agri-Expo Center. Smoking is permitted on the grounds of all public buildings not specifically designated herein as non-smoking grounds, but not within 25 feet of the entrance or exit of any public building.

Sec. 9.5-93. Smoking prohibited on designated grounds.

Smoking is prohibited on the grounds of the Department of Social Services building located at 1225 Ramsey St., Fayetteville, NC 28301 and the grounds of any County building where Cumberland County Health Department services are provided, including 130 Gillespie Street Fayetteville, NC 28301 (the Historic Courthouse); 103 Laketree Blvd. Spring Lake, NC 28390; 2622 Hope Mills Road Millview Place – Suite 100, Fayetteville, NC 28306; 1235 Ramsey Street Fayetteville NC 28301 (the primary Health Department facility); 227 Fountainhead Lane Fayetteville NC 28301; 109 Bradford Avenue Fayetteville NC 28301. Smoking is also prohibited on the grounds of county library facilities including the following: 300 Maiden Lane Fayetteville NC 28301; 3711 Village Drive Fayetteville NC 28304; 6882 Cliffdale Road Fayetteville NC 28314; 4809 Clinton Road Fayetteville NC 28312; 3411 Golfview Road Hope Mills NC 28348; 855 McArthur Road Fayetteville NC 28311; 101 Laketree Blvd. Spring Lake NC 28311; and 7469 Century Circle Fayetteville NC 28306.

Sec. 9.5-94. Posting of signs required.

"No smoking" with letters of not less than one inch in height or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every public building or other place where smoking is regulated by this article, by the public official having control of such building or other place. No person shall remove or deface any sign required to be posted by or under the authority of this article.

Sec. 9.5-95. Implementation Requirements

(a) The County shall remove all ashtrays and other smoking receptacles from grounds where smoking is prohibited.

(b) The person in charge of the grounds where smoking is prohibited, or his or her designee, shall direct a person who is smoking in a prohibited area to cease and, if the person does not comply, shall contact the designated enforcement officer for the County.

(c) The county shall provide county employees with resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).

Sec. 9.5-96. Enforcement and Penalties

(a) *Penalty for Violation.* Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A person duly authorized by the Board of County Commissioners shall be authorized to send a civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the County tax collector office within 14 days of receipt of the citation.

(b) *Additional sanctions for employees.* In addition to any penalty under subsection (a), employees of the County who violate this ordinance shall be subject to disciplinary action consistent with the County's human resources policies.

Sec. 9.5-97. Other applicable laws.

This article shall not be interpreted nor construed to permit smoking where it is otherwise prohibited or restricted by other applicable laws.

Sec. 9.5-98. Effective date.

This ordinance shall be effective the 1st day of January, 2014.

Adopted this 6<sup>th</sup> day of May, 2013.

E. Approval of a Proclamation Proclaiming the Month of May 2013 as "Air Quality Awareness Month" in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, Cumberland County has acknowledged the importance of clean air in promoting quality of life, economic development and future healthy development; and

WHEREAS, we need clean air to protect and improve the quality of our forests, streams and lakes for public recreation and wildlife; and

WHEREAS, Cumberland County is attaining the 2008 federal ozone standard of 0.075 parts per million (ppm), however EPA is currently reviewing more stringent standards; and

WHEREAS, in 2003 the Cumberland County Board of Commissioners partnered with all of its municipalities to participate in the EPA's Early Action Compact and created the Air Quality Stakeholders of Cumberland County to proactively improve air quality for our citizens; and

WHEREAS, for ten years the Air Quality Stakeholders have continued efforts to educate our citizens and find strategies to improve air quality on behalf of the Cumberland County Board of Commissioners and all the Municipal Governments; and

WHEREAS, the Cumberland County Board of Commissioners, in partnership with all of the local Municipal Governments, has elected to continue efforts to improve the air quality in the region through EPA's Ozone Advance Program; and

WHEREAS, the ozone forecast season is from April 1 to October 31, and April 29 to May 5 has been designated as National Air Quality Awareness Week, but in recent years Cumberland County has been celebrating this event through the month of May.

NOW, THEREFORE, BE IT RESOLVED, that the County of Cumberland Board of Commissioners proclaims the month of May 2013, as "AIR QUALITY AWARENESS MONTH" and encourages all government employees, citizens and businesses in Cumberland County to observe the month with activities that promote clean air, and take part in making our community "a healthful environment for all current and future citizens of Cumberland County".

Adopted on May 6, 2013.

- F. Approval of a Proclamation Proclaiming May 5-11, 2013 as "Cumberland County Law Enforcement Officers Week" and May 9, 2013 as "Peace Officers Memorial Day" in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

#### PROCLAMATION

WHEREAS, Cumberland County recognizes the heroism of all law enforcement officers who have died in the line of duty – giving their lives to protect and serve the citizens of our county; and

WHEREAS, the Cumberland County Sheriff's Office has lost twelve officers in the line of duty; and

WHEREAS, a permanent memorial has been designated and erected in memory of all those fallen officers and placed in the ground of the Cumberland County Courthouse and Law Enforcement Center;

NOW, THEREFORE, BE IT RESOLVED that the Cumberland County Board of Commissioners PROCLAIMS May 5-11, 2013 "CUMBERLAND COUNTY LAW ENFORCEMENT OFFICERS WEEK" and May 9, 2013 "PEACE OFFICERS MEMORIAL DAY".

BE IT FURTHER RESOLVED that the Cumberland County Board of Commissioners encourages all citizens of Cumberland County to recognize the contributions of those

who serve their community in potentially dangerous circumstances and the ultimate sacrifice by those who have given their lives protecting and serving this county.

Adopted this 6th day of May, 2013.

G. Approval of a Proclamation Recognizing May 16, 2013 as “Project Homeless Connect Day” in Cumberland County

**BACKGROUND:**

On Thursday, May 16<sup>th</sup> the Cumberland County Continuum of Care on Homelessness is sponsoring Project Homeless Connect from 7:30 a.m. to 1:30 p.m. at Smith Recreation Center on Slater Avenue. This one-day, one-stop event will offer services to the homeless in our community. Local agencies will provide information and applications for housing, employment services, health services, and more.

The day will begin with opening remarks highlighting the aim and purpose for the day’s activities, which is to connect people with the various services our community has to offer. Throughout the day, participants will receive vital assistance with services many of us take for granted such as: health care screenings, job placement opportunities, housing support, governmental services and so much more. Breakfast and lunch will also be served.

Cumberland County Community Development wants to remind the citizens in the community that there are many people who are facing challenges and obstacles in maintaining basic living necessities. Therefore, in order to commemorate this event and the impact that serving the homeless has on all citizens of Cumberland County, Cumberland County Community Development would like for the Board to proclaim May 16, 2013 as Project Homeless Connect Day.

**RECOMMENDATION/PROPOSED ACTION:**

The Cumberland County Continuum of Care on Homelessness Committee, through Cumberland County Community Development, recommends that the Board of Commissioners recognize May 16, 2013 as Project Homeless Connect Day.

COUNTY OF CUMBERLAND

NORTH CAROLINA

**PROCLAMATION**

WHEREAS, Cumberland County is committed to ending homelessness; and

WHEREAS, on January 30, 2013 the 2013 Continuum of Care Homeless Population Point-in-Time Survey identified 615 homeless persons in the Fayetteville/Cumberland County area; and

WHEREAS, the Cumberland County Continuum of Care on Homelessness has identified efforts in which to address homeless issues in the City of Fayetteville and Cumberland County through the Ten-year Plan to End Homelessness; and



WHEREAS, the Cumberland County Board of Commissioners adopted this plan on October 20, 2008; and

WHEREAS, one of the goals identified in the Ten-year Plan to End Homelessness is to expand our outreach network in coordinating annual outreach events; and

WHEREAS, the Cumberland County Continuum of Care on Homelessness Committee will sponsor Project Homeless Connect on May 16, 2013 as a means of accomplishing such efforts; and

WHEREAS, Project Homeless Connect is a one-day event designed to offer vital assistance and services to include health care screenings, job placement opportunities, housing support, and governmental services in a one-stop model to persons experiencing homelessness.

Now, Therefore I, Jimmy Keefe, by virtue of the authority vested in me as Chairman of the Cumberland County Board of Commissioners, do hereby proclaim:

May 16, 2013 as  
Project Homeless Connect Day

in Cumberland County, and urge all citizens to join us in supporting this event and the Cumberland County Continuum of Care on Homelessness in its efforts to end homelessness in our community.

In Witness Whereof, I have hereunto set my hand and caused the seal of Cumberland County, North Carolina to be affixed this 6th day of May, 2013.

H. Approval of a Proclamation Proclaiming May 19-25, 2013 as “Emergency Medical Services Week” in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

#### PROCLAMATION

WHEREAS, emergency medical services (EMS) is a vital public service; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, EMS plays a critical role in public outreach and injury prevention, and is evolving in its role as an important member of the healthcare community; and

WHEREAS, first responders, emergency medical technicians and paramedics stand ready to provide compassionate, lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, emergency medical responders are supported by emergency medical dispatchers, firefighters, law enforcement officers, educators, administrators, researchers, emergency nurses, emergency physicians and others; and

WHEREAS, the members of EMS teams, both career and volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of EMS practitioners by designating Emergency Medical Services Week.

NOW, THEREFORE BE IT RESOLVED, that the Cumberland County Board of Commissioners hereby recognizes all Emergency Medical Services Personnel and expresses sincere appreciation for the dedicated and professional emergency services provided to the citizens of Cumberland County.

BE IT FURTHER RESOLVED, that the Cumberland County Board of Commissioners hereby proclaims the week of May 19-25, 2013 as “EMERGENCY MEDICAL SERVICES WEEK” in Cumberland County with the theme “EMS: One Mission. One Team.” and encourages the community to observe this week with appropriate programs, ceremonies and activities.

Adopted this the 6th day of May 2013.

I. Budget Revisions:

(1) Emergency Services Grant

Revision in the amount of \$10,000 to recognize Local Emergency Planning Commission Hazardous Materials Planning grant to update the Hazardous Materials Annex and to host local emergency planning training sessions. (B13-309) Funding Source – State

(2) General Fund Debt Service

Revision in the amount of \$25,506 to reallocate budgeted revenues reducing interest payment due to sequestration and increasing school sales tax transfer. (B13-294A) Funding Source – Reallocation of Budgeted Revenues

(3) Library

a. Raising a Reader - Revision in the amount of \$605 reducing revenues and expenditures to reconcile budget with the State. (B13-302) Funding Source – State

b. Revision in the amount of \$3,721 to reallocate budgeted expenditures to reclassify a part-time Library Associate position to full time and

abolish a Library Technician position. (B13-318) Funding Source – Reallocation of Budgeted Expenditures

(4) Eastover Fire District

Revision in the amount of \$20,000 to increase contract for additional revenue anticipated to be earned for the remainder of the fiscal year. (B13-307) Funding Source – Eastover Fire District Tax

(5) Vander Fire District

Revision in the amount of \$50,000 to increase contract for additional revenue anticipated to be earned for the remainder of the fiscal year. (B13-306) Funding Source – Vander Fire District Tax

(6) Westarea Fire District

Revision in the amount of \$30,000 to increase contract for additional revenue anticipated to be earned for the remainder of the fiscal year. (B13-305) Funding Source – Westarea Fire District Tax

(7) Health

a. Child Health – Revision in the amount of \$85,065 to recognize additional Medicaid revenue earned which will provide for additional Locum Tenen providers to reduce the waiting list in the Clinic. (B13-313) Funding Source – Fees

b. Tuberculosis Clinic – Revision in the amount of \$3,400 to recognize additional revenue earned to purchase needed supplies for the remainder of the fiscal year. (B13-314) Funding Source – Fees

c. Family Planning – Revision in the amount of \$29,450 to recognize additional Medicaid revenue anticipated to be earned for the remainder of the fiscal year. (B13-315) Funding Source – Fees

d. Communicable Disease – Revision in the amount of \$7,500 recognize additional fees earned. (B13-316) Funding Source – Fees

(8) Gray's Creek Middle School

Revision in the amount of \$537,047 to budget cumulative interest income and contractor sales tax refunds. This amount will be applied to the cost of adding an addition to the existing Gray's Creek Middle School. The total cost of the addition is \$919,421 with the balance of the funds coming from unused debt proceeds remaining in the original capital project. (B13-303) Funding Source – Other

J. Approval of Endorsement of Arts Council Funding a Feasibility Study for a Proposed Performing Arts Center

**BACKGROUND:**

Chairman Keefe asked that this item be added to the May 6, 2013 to request the Cumberland County Board of Commissioners to endorse the Arts Council in funding a Feasibility Study for a proposed Performing Arts Center. This request does not constitute any funding commitment by Cumberland County.

**RECOMMENDATION/PROPOSED ACTION:**

Endorse the Arts Council in funding a Feasibility Study for a proposed Performing Arts Center.

**MOTION:** Commissioner Melvin moved to approve consent agenda Items 2.A. – 2.J.

**SECOND:** Commissioner Evans

**VOTE:** UNANIMOUS (6-0)

**PUBLIC HEARINGS**

James Martin, County Manager, explained the Board of Commissioners' procedures for public hearings.

3. Public Hearing to Receive Comments on the Assumption of the Powers, Duties and Responsibilities of the Board of the Cumberland County Mental Health Area Authority by the Board of County Commissioners

**BACKGROUND:**

At its March 18, 2013 meeting the Board of Commissioners adopted a resolution conferring the powers, responsibilities and duties of the governing board of the Cumberland County Area Mental Health, Developmental Disabilities and Substance Abuse Authority upon the Cumberland County Board of Commissioners pursuant to N.C.G.S § 153A-77(a). This action was conditioned upon the conduct of the statutorily required public hearing and the further condition that the exercise of this authority by the Board of Commissioners would not become effective before May 15, 2013. In order to commence the exercise of that authority by May 15, 2013, the public hearing must be conducted at the May 6, 2013 meeting of the Board of Commissioners. The notice for the public hearing was published in the *Fayetteville Observer* on April 5, 2013.

The statute does not require that any further action be taken to complete the assumption of the powers, responsibilities and duties of the mental health board by the Board of Commissioners; however; the statute does state that a mental health board cannot be abolished except as provided in Chapter 122C of the General Statutes. Chapter 122C does not contain any provisions that address the abolishment of a mental health board. It does contain provisions which address the dissolution of an area authority. For this reason, the action conferring the powers, responsibilities and duties of the mental health board on the Board of Commissioners does not dissolve the mental health area authority. It simply substitutes the Board of Commissioners as the governing body of the area authority.

**RECOMMENDATION/PROPOSED ACTION:**

Conduct the public hearing as advertised and consider whether and when to take further action to confer the powers, responsibilities and duties of the mental health board on the Board of Commissioners.

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Rick Moorefield, County Attorney, reviewed the background information as recorded above.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Keefe opened the public hearing.

The clerk to the board called the following speakers:

Lavern Oxendine – Mr. Oxendine appeared in opposition as chair of the Consumer Family and Advisory Council (CFAC) and as a member of the state CFAC, and stated the state has a new governor and there are still a lot of changes being made in the state legislature with regard to mental health. Mr. Oxendine urged the board of commissioners to put a hold on discussions regarding merger until there is more clarity and retain the local Mental Health Area Authority and local cash reserves for the county's consumers and families.

Lotta Fisher – Ms. Fisher appeared in opposition as co-chair of the CFAC and asked the board of commissioners to slow down on talks regarding merger because of changes that are occurring at the state level with the new administration. Ms. Fisher stated the fund balance should remain in the county for the benefit of its citizens and not become part of a large conglomerate.

Dorothy Johnson – Ms. Johnson appeared in opposition as a member of the CFAC and the National Alliance on Mental Illness (NAMI), and stated Cumberland County should take its time with any plans for merger because the county should not lose what has been built thus far for its mental health affiliates, service providers and consumers. Ms. Johnson stated mental illness is not easy to live with and trust issues are involved.

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

In response to a question posed by Commissioner Evans, Mr. Martin stated the Mental Health Authority and its attorney are looking into the issue of merger and will provide a report on May 15, 2013, to include proposals made by two of the state's eleven Managed Care Organizations (MCOs) and a recommendation regarding merger. Mr. Martin also stated this public hearing is legally required and is only about whether the board of commissioners will desire to become the Mental Health Authority governing board. Mr. Martin clarified that this is a separate decision from a further decision about whether to merge.

In response to a further question posed by Commissioner Evans, Mr. Moorefield stated the statutory responsibility of the board of commissioners with regard to mental health is to provide

funding and all other responsibilities, duties and powers lie with the Mental Health Authority. Mr. Moorefield stated the current agreement with Alliance Behavioral Healthcare was approved by the Mental Health Authority and at present the only way a merger can occur is by a decision of the Mental Health Authority. Mr. Moorefield stated the statutes allow the board of commissioners to assume the responsibilities, duties and powers of the Mental Health Authority and thus be able to make those types of decisions.

Mr. Moorefield stated his understanding is that the recommendation of the Mental Health Authority will be to wait and not pursue merger at this point. Mr. Moorefield further stated should the board of commissioners assume the responsibilities of the Mental Health Authority, merger would then become the prerogative of the board of commissioners. Mr. Moorefield stated there will likely never be clarity in the field of mental health because it will continue to be in a state of change regardless of any decisions made by Cumberland County.

Mr. Moorefield advised that as of April, 2012, and because of a decision made by the Mental Health Authority to enter into a binding interlocal agreement with Alliance Behavioral Healthcare, the Local Management Entity (LME) or Mental Health Authority, no longer exists for State purposes and there is no longer any legal authority for the local LME to handle the mental health State and Medicaid money, which probably constitutes 95% of the funding for the mental health services through the MCO. Mr. Moorefield stated because this has been approved by the Secretary of the Department of Health and Human Services, it will not change regardless of whether there is a merger. Mr. Moorefield advised the local LME that exists has the statutory responsibility to handle county money that is appropriated by the board of commissioners, and the bulk of that money is spent on the Mental Health Clinic in the Public Health Department. Mr. Moorefield stated issues related to merger are really not as big as they sound because the responsibilities for mental health have already been contracted away to the Alliance.

Mr. Moorefield stated his recommendation is that the board of commissioners takes no action until it receives the report at its meeting on May 20, 2013, and that it maintains as much flexibility as possible while awaiting the proposals.

Commissioner Evans asked whether the local Mental Health Authority had to merge and whether it could retain its board in order to continue running things in Cumberland County. Mr. Martin stated that might be possible for some period of time but with Cumberland and Johnston counties being the only two counties that have not merged, Cumberland County will be at risk of being placed with an MCO by the State.

No action was taken by the board of commissioners.

#### 4. Public Hearing to Declare a Moratorium on Permitting Outdoor Shooting Ranges

##### BACKGROUND:

There are no design criteria for outdoor shooting ranges in the county's zoning ordinance. A zoning permit with site plan review is required because these are non-residential uses. Planning staff has identified 14 outdoor ranges that are currently in operation within the county's jurisdiction. Most of these were in existence prior to the date in 2005 when a permit was required for all non-residential uses and are not subject to the permit requirement. There is one application for a permit currently pending.

Most of the complaints received about existing ranges are for noise. There have also been some complaints about safety concerns by adjoining landowners. The pending application is for a tract of less than 4 acres for use as a pistol range. The site contains no improvements designed to attenuate the noise.

Planning staff has developed and recommended comprehensive and stringent range design regulations patterned on those used by the U. S. Department of Energy. These have been considered by the Codes Committee of the Planning Board at two meetings held in March and April. The Codes Committee has recommended that these regulations not be applied to clubs and lodges as defined in the Zoning Ordinance. This is a broad exemption that may cover most of these uses. This recommendation has not been presented to the full Planning Board.

Due to the timing of the advertising requirements for the public hearing that will be required to adopt the regulations, the county attorney obtained permission from the Chairman to advertise a public hearing to be held at the May 6, 2013 meeting of the Board of Commissioners to consider imposing a moratorium of 60 days duration for the issuance of any further permits for outdoor shooting ranges. That will give the Board until the end of June to adopt some level of regulation of these ranges which can be modified by the Board at a later date if necessary.

**RECOMMENDATION/PROPOSED ACTION:**

Conduct the public hearing as advertised and adopt the moratorium ordinance below.

**CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE  
PERMITTING OF OUTDOOR SHOOTING RANGES IN CUMBERLAND COUNTY  
PURSUANT TO N.C.G.S. § 153A-340(h)**

BE IT HEREBY ORDAINED that a temporary development moratorium for outdoor shooting ranges is imposed in Cumberland County for sixty days commencing upon the adoption of this ordinance on May 6, 2013 and expiring not later than July 5, 2013.

This development moratorium is adopted pursuant to N.C.G.S. § 153A-340(h) after a public hearing duly advertised and conducted May 6, 2013.

In adopting this development moratorium, the Board of Commissioners has considered and found the following facts:

1.0 The problems or conditions necessitating the imposition of a development moratorium for outdoor shooting ranges are as follows:

1.1 Outdoor shooting ranges are not regulated by Cumberland County; however; a zoning permit with site review is required for every non-residential use, including outdoor shooting ranges. Outdoor shooting ranges are currently being reviewed and permitted as outdoor recreation for profit. The county attorney has advised that this permitting process has resulted in a law suit currently pending in the Superior Court of Cumberland County.

1.2 Planning staff has identified 14 unregulated outdoor shooting ranges within the county.

1.3 The Board finds that unregulated outdoor shooting ranges, by their inherent nature, may pose a potential safety hazard and constitute a nuisance to nearby neighbors.

1.4 A citizen has complained to the members of the board of commissioners about a pending application for a permit for an outdoor shooting range located on an adjacent property containing less than 4 acres. The complainant state the outdoor shooting range has destroyed the peace and quiet of her neighborhood and made her afraid to go outside into her backyard. The complainant states she has made a complaint to a county Code Enforcement Officer and two complaints to the Sheriff's Office in a period of three weeks.

2.0 The only development approval subject to this temporary moratorium is outdoor shooting ranges and this temporary moratorium will eliminate the permitting of any further outdoor shooting ranges until regulations addressing design criteria and safety are adopted.

3.0 This temporary moratorium shall terminate not later than July 5, 2013, in order for the Board of Commissioners to advertise and conduct a public hearing during the month of June, 2013, for the purpose of adopting a text amendment to the Zoning Ordinance which will address design criteria and safety standards for outdoor shooting ranges.

4.0 The county attorney has advised the Board of Commissioners that proposed regulations addressing design criteria and safety standards for outdoor shooting ranges have been drafted by staff, have been considered by the Codes Committee of the Planning Board, are scheduled to be considered by the Planning Board, and will be forwarded to the Board of Commissioners for consideration during the month of June, 2013.

Adopted in a regular meeting held May 6, 2013.

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Rick Moorefield, County Attorney, reviewed the background information as recorded above and stated the basis for the moratorium is that the Joint Planning Board through its Codes Committee has been looking into regulations for outdoor shooting ranges for the past several months and their efforts appear to be in a quagmire. Mr. Moorefield advised there is some urgency for getting regulations in place and staff has identified fourteen shooting ranges already in existence, most of which were in existence prior to June, 2005 when the county ordinance changed and required all nonresidential uses to be permitted. Mr. Moorefield stated only two of the fourteen are permitted under the current regulations. Mr. Moorefield stated fairly stringent design regulations and safety criteria have been proposed to address the concerns of the Codes Committee. Mr. Moorefield stated most of the complaints received have to do with noise with only a few concerns being about public safety issues.

Mr. Moorefield stated the recommendation for a moratorium is based on a pending application for a range located on 3.8 acres of land within 20 feet of the property line in each corner. Mr.



Moorefield stated the pending application is for a handgun range for individuals who are just learning how to shoot and although there are no residences contiguous to the property, there are safety concerns about accidental shootings.

Mr. Moorefield advised his recommendation is that the board of commissioners adopts the moratorium ordinance which is only for sixty days because it will allow time for draft regulations to be brought forward to the board's June 17, 2013 meeting. Mr. Moorefield further advised that the ordinance complies with statutory requirements. Mr. Moorefield responded to questions.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Keefe opened the public hearing.

The clerk to the board advised there were no speakers:

Chairman Keefe closed the public hearing.

MOTION: Commissioner Melvin moved to adopt the moratorium ordinance.

SECOND: Commissioner Council

DISCUSSION: Commissioner Evans asked whether the moratorium could be extended indefinitely. Mr. Moorefield stated the moratorium has to be for sixty days because to extend beyond that time would involve additional posting and advertising requirements. Mr. Moorefield further stated regulations can be put in place quicker than a moratorium beyond sixty days can be put in place.

VOTE: UNANIMOUS (7-0)

## **ITEMS OF BUSINESS**

5. Report from the Civic Center Commission by Karen Long, Crown Center General Manager and George Turner, Chairman of the Civic Center Commission

### **BACKGROUND:**

Mrs. Karen Long, Crown Center General Manager and Mr. George Turner, Chairman of the Civic Center Commission will provide an overview/report on the Crown Center activities.

### **RECOMMENDATION/PROPOSED ACTION:**

Accept the report as presented – for informational purposes.

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Karen Long, Crown Center General Manager, provided the following presentation:

The Civic Center Commission was established by the General Assembly to oversee the Crown Center. The Commission serves in an advisory capacity to study, plan and program for the highest and best use of the facilities committed to it for public use, edification and enjoyment.

The Commission will carry out any duty or assignment expressly delegated by resolution of the Board of County Commissioners provided that they do not conflict with and are not inconsistent with the laws of the State of North Carolina or ordinances of Cumberland County; establish rules and regulations for its own proper organization and management of the Civic Center facilities. The Commission directs the General Manager to ensure the proper implementation of the purposes and duties of the Commission.

Regular Civic Center Commission meetings are held on at 5:30 PM on the 4<sup>th</sup> Tuesday of each month which include items for action, financial, marketing and sales, capital improvement and General Manager's reports.

The Civic Center Commission has sixteen (16) members consisting of fifteen (15) voting member appointed by the Board of Commissioners and the County Manager who serves as a non-voting ex-officio member. There are three standing committees: Executive, Finance and Capital Improvements, which are composed of the voting members and are responsible for advising the full Commission on related matters.

George Turner, Chairman (Executive Committee)	Wayne Beard, Vice-Chair (Executive Committee)
Thaddeus Jenkins, Secretary (Executive Committee)	Olivia Chavis (Executive Committee)
Carl Pat Williford (Executive Committee)	Ryan C. Aul (Capital Improvement Committee)
Edith Bigler (Finance Committee)	Judy Dawkins (Capital Improvement Committee)
McBryde Grannis (Capital Improvement Committee)	Mark Lynch (Capital Improvement Committee)
Ramona Moore (Finance Committee Chair)	Nat Robertson (Capital Improvements- Chair)
William Tew (Finance Committee)	Elizabeth Varnedoe (Finance Committee)
Robert C. Williams (Finance Committee)	James Martin (Non-voting ex-officio member)
Commissioner Ed Melvin (County Board of Commissioners Liaison)	Council Member Keith A. Bates, Sr. (Fayetteville City Council Liaison)

January 2013: Suites & Signage Ad hoc Committee was formed to review contracts and rates and offer assistance in developing sales strategies and opportunities.

- Nat Robertson, Chairman
- Thaddeus Jenkins
- Mark Lynch
- Ramona Moore
- Liz Varnedoe

## February 2013

### Committee/Commission Actions & Activities:

- The Suites & Signage Ad hoc Committee met on February 6<sup>th</sup> & 20<sup>th</sup> from which recommended actions for a job description revision, General Manager directives and signage removal were outlined. These recommendations were presented to and approved by the Commission at the February 26<sup>th</sup> meeting.
- The Suites & Signage Committee was renamed the Oversight Committee as it was determined that there was a need for a committee to review contracts in addition to other matters.

## February 2013:

Attractions Ad hoc Committee was formed to address the types of events provided and develop methods to more bring additional events to the facility.

- Mark Lynch, Chairman
- Thaddeus Jenkins
- Olivia Chavis
- McBryde Grannis
- Pat Williford

## March 2013

### Committee Actions & Activities:

- March 11<sup>th</sup>: The Oversight Committee met to review the concessions/catering contract. As a result staff was provided the recommendations and directives to implement methods to better serve patrons.
- March 19<sup>th</sup>: The Finance Committee met at which time the Crown Center FY2013-FY2014 Proposed Budget was reviewed and approved.
- March 26<sup>th</sup>: The Attraction Committee met to discuss the scope, mission statement and plan of action.

## March 26, 2013

### Commission Meeting Actions & Activities:

- Approval of the FY2013-FY2014 Proposed Budget
- Approval for the Crown Coliseum roof project bid request and for it be moved forward for County Board of Commissioners' consideration at their April 2, 2013, meeting.
- Approval to have a performance/benchmark study prepared and a budget revision request to allocate funds for the study be moved forward for County Board of Commissioners consideration at their April 15, 2013, meeting.

## April 2013

### Commission Actions & Activities:

- April 1<sup>st</sup>: RFP for Management Services
- April 2<sup>nd</sup>: The BOC approved the bid for the roof project (Award to Draydaze Contracting)

- April 10<sup>th</sup>: Global Spectrum provided a presentation to a quorum of the Commission
- April 15<sup>th</sup>: The BOC approved the budget revision request for the performance/benchmark study in the amount of \$34,000

#### Performance Indicators

Update:

YTD (FY 2013-2014)	1.5% Increase of Drop Count (Attendance)	1% Increase to Event Contributions
March 31, 2012	408,425	\$1,217,227
Goal	6,126	\$ 12,172
March 31, 2013	407,643	\$1,243,006
	- 782 (decreased)	\$13,607 (surpassed)

8% Year-End Net Contribution to the Budget
Net Contribution to Budget is \$625,890
Calculate: $\$625,890 / (1,888,060 + 2,470,544)$
14.36% (surpassed)

Ms. Long responded to questions and stated by the end of the fiscal year, improvement should be shown on all three performance indicators. Ms. Long explained percentages were kept at a conservative level this year because of recent economic difficulties. Mr. Long concluded her presentation.

Mr. Martin brought to the board of commissioners' attention a memorandum just received from the Mental Health Authority Area Board Chair, Lodies Gloston, with a recommendation from the Area Board that the merger timeframe be delayed until such time as the environment is more settled regarding the delivery of Medicaid reimbursed mental health services in North Carolina. Mr. Moorefield advised the request of the Area Board appears to be to stop the process. Mr. Moorefield stated his understanding through conversations with the Mental Health Authority's attorney was that the board of commissioners would receive an evaluation of proposals submitted by the MOCs. Mr. Moorefield stated one of the points made in the memorandum, "Any merger of the Cumberland County Mental Health Authority at this time will result in obligating Cumberland County to share financial responsibility for the merged MOC (and obligations of a dissolved LME/MCO) although the viability of the LME/MCO is unknown at this time", cannot really be evaluated until the numbers are provided.

Mr. Moorefield advised that until such time as proposals from the MCOs are brought forward, it is difficult to discuss such matters or make any type of decision. Mr. Moorefield recommended

that the board of commissioners solicit the information for consideration at its May 20, 2013 meeting so the board can have greater flexibility and make an informed decision.

6. Nominations to Boards and Committees

A. Adult Care Home Community Advisory Committee (6 Vacancies)

Commissioner King nominated Rebecca Campbell, Daniel Rodriguez, Ralph T. Cascasan and Cassandra W. Haire.

Commissioner Evans nominated Sheba McNeill.

Commissioner Council nominated Rasheedah Reid.

7. Appointments to Board and Committees

A. Animal Control Board (1 Vacancy)

Nominee:

City of Fayetteville Resident: Melissa Katzenberger

B. Board of Adjustment (1 Vacancy)

Nominee:

Alternate Member: Winton McHenry

C. Equalization & Review Board – Appointment of Officers

Chairman:

Curtis Alexander

First Vice Chairman:

William “Bill” Holland

Second Vice Chairman:

George Turner

There being an equal number of vacancies and nominees,

MOTION: Commissioner Council moved to appoint by acclamation all nominees and officers to their respective positions.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner King moved to recess the Cumberland County Board of Commissioners’ meeting and convene the meeting of the Overhills Park Water and Sewer District Governing Board.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS 7(-0)

Chairman Keefe called the meeting of the Overhills Park Water and Sewer District Governing Board to order.

## ITEMS OF BUSINESS

### 1. Consent Agenda

A. Approval of Agenda

B. Approval of minutes of February 18, 2013 Special Meeting

C. Approval of a Resolution Exempting Overhills Water and Sewer District from the Provisions of N.C.G.S 143-64.31

#### BACKGROUND:

The Public Utilities Division received notification from the Clean Water State Revolving Fund (CWSRF) on April 1<sup>st</sup> of their intent to fund the installation of sewer within the Overhills Park subdivision contingent upon meeting all of the milestones outlined within the letter. The first milestone, which must be submitted by close of business on July 1, 2013, is the completion of an Engineering Report/Environmental Information Document (ER/EID). With the first milestone quickly approaching, it is in the best interest of the District to exempt the project from the provision of N.C.G.S 143-64.31.

#### RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and Management recommend adoption of the Resolution.

COUNTY OF CUMBERLAND

NORTH CAROLINA

### RESOLUTION EXEMPTING THE OVERHILLS WATER AND SEWER DISTRICT FROM G.S. 143-64.31

WHEREAS, North Carolina General Statutes 143-64.31 requires the initial selection of firms to perform architectural, engineering, and surveying services without regard to fee;

WHEREAS, the County of Cumberland proposes to enter into one or more contracts for such services for work on the Overhills Water and Sewer District; and

WHEREAS, the County of Cumberland has received notification of intent to fund from the Clean Water State Revolving Fund (CWSRF) for the Overhills Water and Sewer District contingent upon meeting all of the milestones, which includes the submittal of an Engineering Report/Environmental Information Document (ER/EID) by close of business on July 1, 2013; and

WHEREAS, the County of Cumberland does not have adequate time to formally complete a qualification based selection process and comply with the schedule authorized by CWSRF; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners, that the Overhills Water and Sewer District is hereby exempted from the provisions of North Carolina General Statutes 143-64.31 for the reasons stated in this resolution and the fact that the estimated professional fee for the needed engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

BE IT FURTHER RESOLVED that the County Manager is hereby authorized to execute, in accordance with the applicable laws and the County's standard contracting policies, a contract for the provision of the engineering services describe above.

Adopted this 6th day of May, 2013.

MOTION: Commissioner King moved to approve consent agenda items 1.A. – 1.C.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

There being no further matters of business,

MOTION: Commissioner King moved to adjourn the meeting of the Overhills Park Water and Sewer District Governing Board and reconvene the Cumberland County Board of Commissioners meeting.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

#### 8. Closed Session

A closed session was not called for this meeting.

MOTION: Commissioner King moved to adjourn.  
SECOND: Commissioner Faircloth  
VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 9:58 a.m.

Approved with/without revision:

Respectfully submitted,

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Candice H. White  
Clerk to the Board