

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, FEBRUARY 3, 2014 – 9:00 AM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR MEETING
MINUTES

PRESENT: Commissioner Jeannette Council, Chair
Commissioner Kenneth Edge, Vice Chair
Commissioner Charles Evans
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager
James Lawson, Assistant County Manager
Quentin McPhatter, Assistant County Manager
Rick Moorefield, County Attorney
Melissa Cardinali, Finance Director
Sally Shutt, Public Information Director
Brenda Reed Jackson, Department of Social Services Director
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Council called the meeting to order.

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

Recognition of Retired County Employee:
Violet Baker-Johnson
Cumberland County Department of Social Services

On behalf of the Board of Commissioners, Commissioner Melvin recognized Violet Baker-Johnson with a plaque honoring her thirty-two years of service with Cumberland County.

James Martin, County Manager, requested an amendment to Item 2.C. so the listing period for taxpayers for the 2014 tax year is extended to February 10, 2014 at 5:00 p.m.

MOTION: Commissioner King moved to approve the amendment to Item 2.C. as requested.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

1. Approval of Agenda

MOTION: Commissioner Melvin moved to approve the agenda.
SECOND: Commissioner King
VOTE: UNANIMOUS (7-0)

2. Consent Agenda

- A. Approval of minutes for the January 21, 2014 regular meeting
- B. Approval of Report on Delinquent Real Property Taxes for the Year 2013 and Direct the Tax Collector to Advertise the Tax Liens During the Month of April 2014

BACKGROUND:

North Carolina General Statute 105-369 requires the Tax Collector to report unpaid taxes for the current fiscal year that are liens on real property by the first Monday in February. The purpose of the reporting is to allow the Board to order the Tax Collector to advertise the tax liens. Upon receipt of the Board's order, the Tax Collector will advertise the tax liens by posting notice at the County Courthouse and by publishing each lien at least one time in one or more of the newspapers having general circulation in Cumberland County.

The statute requires that advertisement period to occur during the period of March 1st through June 30th. It is the intention of the Tax Collector to deliver the list of delinquent taxes to the newspaper in the latter part of April for advertisement in early to mid-May. The delinquent report will be on display in the Clerk's office through February 4, 2014 in CD format. After this date, the report will be available in CD format in the Tax Administrator's office.

Total Delinquent County Taxes on real property for Year 2013 as of 1/27/13:
\$12,124,435 on 16,148 parcels

RECOMMENDATION/PROPOSED ACTION:

Accept the report of unpaid taxes for the current fiscal year that are liens on real property and charge the Tax Collector to advertise the tax liens in a newspaper of local circulation during the month of May 2014.

- C. Approval of Request from the Cumberland County Tax Office to Extend the Listing Period for Taxpayers for the 2014 Tax Year

BACKGROUND:

Weather conditions over the last week have prevented the opening of the Tax Office for 2 full days and limited hours of operation on a third day. In order to better serve the citizens of Cumberland County, the Tax Administrator is requesting the Board of County Commissioners extend the regular listing period through February 10, 2014 at 5:00 PM pursuant to the Board's authority under NCGS 105-307. These additional 3 days will allow the citizens to complete the required listings without penalty for any delay that may have been caused by the inclement weather.

RECOMMENDATIONS/PROPOSED ACTION: Approve the following request to extend the property tax listing period through February 10, 2014 at 5:00 PM.

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

RESOLUTION

WHEREAS, the Cumberland County Tax Office was closed from 1:00 p.m. on January 28 to 5:00 p.m. on January 30, 2014 due to inclement weather; and

WHEREAS, the Board of Commissioners intends that those taxpayers listing property for taxation be given the full listing period to do so.

THEREFORE, BE IT RESOLVED, that the period for listing property for taxation for the 2014 tax year is hereby extended to February 10, 2014, at 5:00 p.m.

BE IT FURTHER RESOLVED, that the Cumberland County Tax Office shall accept all mailed listings bearing a postmark not later than February 10, 2014 as timely filed and not subject to any late listing penalty.

Adopted this 3rd day of February, 2014.

D. Approval of Report on the Disposal of Surplus County Property Pursuant to NCGS 160A-226(a)

BACKGROUND:

On June 15, 1998, the Board adopted a resolution founded in the statutes allowing the Assistant County Manager to dispose of certain "personal property, worth less than \$5,000 per item or group of similar items, which have become obsolete, unusable, economically unrepairable, or otherwise surplus to the needs of the county".

The resolution stipulated further that County Management shall render semi-annual reports to the Board of County Commissioners summarizing disposals between the preceding July 1 and December 31st.

RECOMMENDATION/PROPOSED ACTION:

That the Board accepts and approves the report on the disposal of surplus County property. That the Board adopts the report and that the report is duly recorded in the official minutes.

REPORT ON THE DISPOSAL OF SURPLUS COUNTY PROPERTY
July 1, 2013 – December 31, 2013

ITEM NO.	DATE RECEIVED	DESCRIPTION OF PROPERTY	QTY	RENDERING DEPARTMENT	METHOD OF DISPOSAL	LANDFILL LOCATION
1	8/6/2013	COMPUTER DESKTOPS	19	PUBLIC LIBRARY	LANDFILL	ANN STREET
2	8/6/2013	COMPUTER LAPTOPS	18	PUBLIC LIBRARY	LANDFILL	ANN STREET
3	8/6/2013	COMPUTER SERVER	1	PUBLIC LIBRARY	LANDFILL	ANN STREET
4	8/6/2013	FLAT PANEL MONITORS	4	PUBLIC LIBRARY	LANDFILL	ANN STREET
5	8/6/2013	LASER PRINTERS	2	PUBLIC LIBRARY	LANDFILL	ANN STREET
6	8/6/2013	REFRIGERATOR	1	LEGAL	LANDFILL	ANN STREET
7	8/6/2013	PRINTER	1	PUBLIC BUILDINGS	LANDFILL	ANN STREET
8	8/6/2013	MONITOR	1	PUBLIC BUILDINGS	LANDFILL	ANN STREET
9	8/6/2013	PLAT MACHINE	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
10	8/6/2013	COMPUTER EQUIPMENT	MISC	MENTAL HEALTH	LANDFILL	ANN STREET

February 3, 2014 Regular Meeting

11	8/6/2013	FILE CABINET	1	CLERK OF COURT	LANDFILL	ANN STREET
12	9/4/2013	FURNITURE	MISC	DSS	LANDFILL	ANN STREET
13	9/4/2013	FURNITURE	MISC	AGRI-EXPO CENTER	LANDFILL	ANN STREET
14	9/4/2013	CREDENZA	1	CLERK OF COURT	LANDFILL	ANN STREET
15	9/4/2013	SALVAGE EQUIPMENT	MISC	DSS	LANDFILL	ANN STREET
16	9/4/2013	FILE CABINETS	2	DISTRICT ATTORNEY	LANDFILL	ANN STREET
17	9/4/2013	OFFICE CHAIRS	2	INFORMATION SERVICES	LANDFILL	ANN STREET
18	9/4/2013	REFRIGERATOR	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
19	9/4/2013	MICROWAVE	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
20	9/4/2013	CHAIR	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
21	10/1/2013	COMPUTERS	32	HEALTH DEPARTMENT	LANDFILL	ANN STREET
22	10/1/2013	LAPTOPS	22	HEALTH DEPARTMENT	LANDFILL	ANN STREET
23	10/1/2013	PRINTERS	33	HEALTH DEPARTMENT	LANDFILL	ANN STREET
24	10/1/2013	MONITORS	23	HEALTH DEPARTMENT	LANDFILL	ANN STREET
25	10/1/2013	SCANNERS	7	HEALTH DEPARTMENT	LANDFILL	ANN STREET
26	10/1/2013	NETWORK CARDS	38	HEALTH DEPARTMENT	LANDFILL	ANN STREET
27	10/1/2013	WIRELESS USB	10	HEALTH DEPARTMENT	LANDFILL	ANN STREET
28	10/1/2013	SWITCH	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
29	10/1/2013	COMPUTERS	12	INFORMATION SERVICES	LANDFILL	ANN STREET
30	10/1/2013	PRINTER	1	INFORMATION SERVICES	LANDFILL	ANN STREET
31	10/1/2013	COMPUTERS	2	INFORMATION SERVICES	LANDFILL	ANN STREET
32	10/1/2013	PRINTER	1	INFORMATION SERVICES	LANDFILL	ANN STREET
33	10/1/2013	LAMINATING MACHINE	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
34	10/1/2013	BOOKSHELF	1	FINANCE	LANDFILL	ANN STREET
35	10/1/2013	TREADMILLS	3	SHERIFFS OFFICE	LANDFILL	ANN STREET
36	10/2/2013	STEAM OVEN	1	CROWN CENTER	LANDFILL	ANN STREET
37	10/2/2013	ICE MACHINE	1	CROWN CENTER	LANDFILL	ANN STREET
38	10/2/2013	PIZZA OVENS	2	CROWN CENTER	LANDFILL	ANN STREET
39	11/22/2013	TABLE	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
40	11/22/2013	CHAIR	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
41	11/22/2013	TABLES	5	REGISTER OF DEEDS	LANDFILL	ANN STREET
42	11/22/2013	COFFEE TABLE	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
43	11/22/2013	SPOT MONITORS	8	HEALTH DEPARTMENT	LANDFILL	ANN STREET
44	11/22/2013	DIAGNOSTIC SETS	6	HEALTH DEPARTMENT	LANDFILL	ANN STREET
45	11/22/2013	FAX MACHINES	2	HEALTH DEPARTMENT	LANDFILL	ANN STREET
46	11/22/2013	VACUUM CLEANERS	4	HEALTH DEPARTMENT	LANDFILL	ANN STREET
47	11/22/2013	ASH TRAYS	2	HEALTH DEPARTMENT	LANDFILL	ANN STREET
48	11/22/2013	PHLEBOTOMY CHAIR	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
49	11/22/2013	COUNTERTOP REFRIGERATORS	2	HEALTH DEPARTMENT	LANDFILL	ANN STREET
50	11/22/2013	STOOLS	2	HEALTH DEPARTMENT	LANDFILL	ANN STREET
51	11/22/2013	FILE CABINET	1	HEALTH DEPARTMENT	LANDFILL	ANN STREET
52	11/22/2013	WOODEN CHART HOLDERS	2	HEALTH DEPARTMENT	LANDFILL	ANN STREET
53	11/22/2013	DESKS	3	CLERK OF COURT	LANDFILL	ANN STREET
54	11/22/2013	HUTCHES	3	CLERK OF COURT	LANDFILL	ANN STREET
55	11/22/2013	MATS	6	REGISTER OF DEEDS	LANDFILL	ANN STREET
56	11/22/2013	MICROWAVE	1	DISTRICT ATTORNEY'S	LANDFILL	ANN STREET
57	11/22/2013	SHREDDER	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
58	11/22/2013	CHAIRS	9	AGRI-EXPO CENTER	LANDFILL	ANN STREET
59	11/22/2013	CHAIR	1	REGISTER OF DEEDS	LANDFILL	ANN STREET
60	12/31/1964	DESK	1	INFORMATION SERVICES	LANDFILL	ANN STREET
61	12/31/1964	PRINTERS	7	CHILD SUPPORT	LANDFILL	ANN STREET
62	12/31/1964	FURNITURE	MISC	HISTORIC COURTHOUSE	LANDFILL	ANN STREET

63 12/31/1964 REFRIGERATOR
64 12/31/1964 BOOK SHELVES

1 HEALTH DEPARTMENT LANDFILL ANN STREET
3 CLERK OF COURT LANDFILL ANN STREET

E. Approval of Grant of Easement for Bus Stop to City of Fayetteville

BACKGROUND:

The City of Fayetteville has requested that the county grant an easement for the location and maintenance of a bus stop near the West Regional Branch Library located at 7469 Century Circle, Fayetteville. The area of the requested easement is 6' by 20.

RECOMMENDATION/PROPOSED ACTION:

County attorney recommends that the easement be granted subject to clarification of the property address in the easement document.

STATE OF NORTH CAROLINA
CUMBERLAND COUNTY

PERMANENT EASEMENT FOR
BUS SHELTER CONSTRUCTION
AND MAINTENANCE

Excise Tax (No revenue stamps)

Parcel Identification Number: 9485-78-0903

Mail after recording to: Brian Meyer, Assistant City Attorney, City of Fayetteville, 433 Hay Street, Fayetteville, NC 28301

THIS EASEMENT AGREEMENT, made this _____ day of February, 2014, by and between the *COUNTY OF CUMBERLAND*, (hereinafter referred to as "GRANTOR"), and the *CITY OF FAYETTEVILLE*, a municipal corporation, located in Cumberland County, organized and existing under the laws of the State of North Carolina, (hereinafter referred to as "GRANTEE").

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH:

THAT WHEREAS, Grantor is the fee simple owner of that certain parcel of land located at 7461 Century Circle; and

WHEREAS the Grantee desires to acquire a permanent easement in, on, over, along, across and upon the property of Grantor for the limited purpose of constructing, installing, operating, repairing and maintaining a bus stop shelter; and

WHEREAS, the Grantor recognizes the benefits accruing to said property from the construction and installation of said bus shelter.

NOW, THEREFORE, in consideration of said benefits, and for the further consideration of One and 00/100 Dollar (\$1.00) in hand paid, the receipt of which is hereby acknowledged, the Grantor hereby gives and grants unto the Grantee, its successors and assigns, a permanent easement, privilege and authority to construct, install, operate, repair, and maintain a bus stop shelter, and releases the Grantee, its elected officials, employees, agents and assigns from any and all claims for damages by reason of said easement in, on, over, along, across and upon the lands of the Grantor, and of the past and future use thereof by the Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject such easement, said property being located in Cumberland County and being more particularly described as:

BEGINNING at an existing PK Nail located at the intersection of the centerline of Century Circle and the eastern right-of-way margin of the Aberdeen and Rockfish Railroad, continuing thence North 11 degrees 02 minutes 42 seconds West 31.01 feet to an existing rebar, thence South 10 degrees 50 minutes 12 seconds East 179.28 feet to an existing rebar, thence North 71 degrees 20 minutes 35 seconds East 785.43 feet to the TRUE POINT OF BEGINNING, and continuing thence North 77 degrees 24 minutes 03 seconds East 10 feet to a point, thence North 12 degrees 35 minutes 57 seconds West 20 feet to a point, thence South 77 degrees 24 minutes 03 seconds West 10 feet to a point, thence South 12 degrees 35 minutes 57 seconds East 20 feet to the POINT AND PLACE OF BEGINNING, and containing approximately 120 square feet and as shown on Attached Exhibit A.

To have and to hold the above right, easement and privilege as described and defined above thereto belonging to Grantee, its successors and assigns, for so long as the Grantee, or its successors and assigns, continue to use the easement forever.

IN WITNESS WHEREOF, the Grantor has hereunto set his/her hand and seal, the day and year first above written.

F. Approval of Cumberland County Departmental Fee Schedule

BACKGROUND:

In an effort to consolidate fee information and provide clear communication of fees charged by Cumberland County, the Finance Department has created a comprehensive fee schedule. This schedule is comprised of fees charged by all departments of the County. The fee schedule will be maintained annually and included as an attachment to the annual operating budget ordinance.

As a starting point in this process, the Finance Department has created the consolidated fee schedule representing existing fees. The next step is to insure all fees are adopted by the Board of Commissioners. Changes to the fee schedule will be presented in the upcoming annual budget process.

RECOMMENDATION/PROPOSED ACTION:

Adopt the comprehensive Cumberland County Fee Schedule for Fiscal Year 2013 -14 included herein as Attachment A.

G. Approval of Revisions to the Water Rules and Regulations of the Cumberland County Public Utilities Division

BACKGROUND:

After several months of billing for the Southpoint Water project, the Public Utilities Division has come across a few issues that can easily be resolved by updating the Rules and Regulations. Currently the Rules and Regulations state that the "bills are due within 28 days of the meter reading and become delinquent thereafter, whereupon the late penalty currently in effect will be added to the account. If bill is not paid within 42 days from date rendered, the County may discontinue service." Even though the due date is printed on the bills, customers are still confused when the payments are due, since the date varies each month.

The Public Utilities Division is suggesting changing the due date to the 10th of each month with the cutoff date being the 24th of each month. This is similar operation of other Towns and Utilities in and around our surrounding area.

Updating the Rules and Regulations will in no way affect the billing software, nor cause a burden to the customers. In fact, this will make the billing and payment process easier for the customers and the Public Utilities Division. Once approved, the Public Utilities Division will mail out letters to the customers informing them of the changes with an updated copy of the Rules and Regulations.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Board of Commissioners approve the changes listed below to the Rules and Regulations of the Cumberland County Public Utilities Division.

**WATER RULES AND REGULATIONS
OF THE
CUMBERLAND COUNTY PUBLIC UTILITIES DIVISION
CUMBERLAND COUNTY, NORTH CAROLINA**

Classification of Service

All services are classified under one of two categories:

Residential- Includes all ¾” and 1” residential meters.

Commercial- Includes all businesses regardless of meter size, and single-family or multi-family residential properties with meter size greater than 1”.

II. Rate Schedule and Tap-On Fees

(A) Rate Schedule

All customers will be billed at the rate currently in effect and approved by the Board of Commissioners of Cumberland County. Said rate schedule is attached hereto as Appendix “A” and is incorporated herein by reference.

(B) Tap-On Fees

All customers will be charged the tap-on fee currently in effect at the time of application for water service. Tap-on fees are approved by the County Commissioners of Cumberland County. Said tap-on fee schedule is attached hereto as Appendix “B” and is incorporated herein by reference.

(C) Commercial and Rental properties do not qualify for the exceptions and exemptions listed in Appendix A and B.

Sprinkler Service for Fire Protection

Connection to the system for service to sprinkler systems to provide fire protection may be secured upon application of the customer and upon payment of all charges involved in making the connection. For sprinkler connections to the system the customer shall pay annual charges based on the following schedule:

<u>SIZE</u>	<u>ESTABLISHED FEE</u>
6 inch sprinkler connection	\$250.00
8 inch sprinkler connection	\$400.00
12 inch sprinkler connection	\$700.00

No service other than for fire protection shall be tapped on to or taken from a sprinkler system.

IV. Multiple Unit Connections

General practice dictates one meter per living unit and water is used for that unit only. Specifically,

Single Family Homes (One living unit per structure):

One meter per living unit.

Duplexes/Apartments (Two or more living units per structure):

One meter per living unit. Meters shall be placed closely together and each meter will represent a separate and individual account.

Subdivisions (Two or more residences within a developed project):

One meter per living unit. Plans must be submitted to the county for approval and must be shown to be compatible with the plans for the ultimate development of the County's utility system. (See section XIII-Extensions)

Mobile Home Parks:

Park owners have two options:

- a. Trailers will not be individually metered and billed. County will install a meter (size to be determined by Park Owner and Utilities Director) at street. County will read meter and bill accordingly. Park Owner will be responsible for lines, maintenance, and consumption on owner's side of the meter.
- b. Trailers may be individually metered and must follow the same criteria as subdivisions. See Section XIII-Extensions.

Multiple use of a meter will not be allowed except where a customer shall make a special application for permit for such installation and each such permit shall be subject to

review and approval by the Utilities Director and the County Manager. The County reserves the right to size the meter for multiple unit connections.

V. Application for Services

Customers may make application for service in person at the Cumberland County Public Utilities Division.

Service will be supplied only to those who provide proper documentation, pay all applicable fees, execute a Water User Agreement, and make the deposit required.

Cumberland County may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location. (All outstanding balances, including late fees and reconnect fees must be paid in full.)

Cumberland County may reject any application for service not available under a standard rate or which may affect the supply of service to other customers or for other good and sufficient reasons, in such case the tap-on fee will be refunded.

VI. Deposit

All residential water customers will be required to make a minimum deposit of \$100.00.

All commercial water customers will be required to make a deposit equal to the value of three months estimated usage of water, but not less than \$100.00.

The individual, partnership and/or corporation in whose name the deposit is made shall be responsible for all bills incurred in connection with the service furnished.

The deposit shall be held by the County and the customer shall not be entitled to any interest earnings upon refund of the deposit.

A separate deposit is required for each meter installed.

No refunds will be authorized without request for discontinuance of service and all bills are paid for consumption through date of discontinuance.

Relocation to a new property within the Cumberland County Water and Sewer Service District by an existing customer shall not be considered a discontinuation of service. In the event of a re-location, a customer with a good credit history shall have his or her original deposit transferred to the new account. At that point the customer will be billed within the next billing cycle schedule established by the department and the bill will include both the bill representing the ending balance on the original account and the bill representing the balance on the new account. In the event the customer relocates from a property with water service only to a property with water and sewer service the customer shall pay an additional \$50.00 sewer deposit. In the event a customer relocates from a property with water and sewer services to a property with water only, the department shall refund the portion of the deposit designated for sewer. In the event that a customer with a poor credit history and an outstanding overdue balance relocates, the customer will

be required to pay the outstanding overdue balance and any additional deposits or fees established herein.

VII. Minimum Charge

The minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter requires a separate account, and each account shall cover a separate and individual meter.

Water furnished for a given installation shall be used for that installation only. Each customer's service must be separately metered at a single delivery and metering point. Each commercial unit used for businesses purposes shall have a separate meter.

All commercial use for business purposes, shall be metered separately from any residential use, and vice-versa, whether now in service or to be installed in the future.

VIII. Meter Reading-Billing-Collecting

Meters will be read and bills rendered as follows:

Meters will be read once per month and bills mailed once per month; but the County reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

Bills for water will be figured in accordance with the County's published rate schedule then in effect and will be based on the water consumed for the period by the meter readings.

Charge for service commences when meter is installed and the County's connection made, whether used or not. If not used, the customer will be charged the minimum rate each month.

Readings from different meters will not be combined for billing, even if said meters may be for the same or different premises, or for the same or different customer, or for the same or different services.

Bills are due the 10th of each month and become delinquent thereafter, whereupon the late penalty currently in effect will be added to the account. If bill is not paid by the 24th of the same month, the County may discontinue service.

Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

IX. Access to Premises

Duly authorized agents of the County shall have access at all reasonable hours to the premises of the customer for the purpose of installing or removing County property, inspecting piping, reading or testing meters, or for any other purpose in connection with the County's service and facilities.

Each customer shall grant or convey or shall cause to be granted or conveyed to the County a perpetual easement and right of way across any property owned or controlled by the customer wherever said perpetual easement and right of way is necessary for the County water facilities and lines in order to furnish service to the customer.

X. Change of Occupancy

Not less than three days' notice must be given in person or in writing at the Utilities Division to discontinue service for a change of occupancy.

The outgoing party shall be responsible for all water consumed up to the time of departure, or the time specified for departure, whichever period is longer.

XI. Suspension of Service

When services are discontinued and all bills are paid, the deposit will be refunded.

Upon discontinuance for non-payment of bills, the deposit will be applied by the County toward settlement of the account. Any balance will be refunded to the customer; but if the deposit is not sufficient to cover the bill, the County may proceed to collect the balance in the usual way provided by law for the collection of debts.

Service discontinued for non-payment of bills will be restored only after bills are paid in full, redeposit made, and a reconnect charge paid for each meter reconnected.

The County reserves the right to discontinue its service without notice for the following additional reasons:

- (a) To prevent fraud or abuse
- (b) Customer's willful disregard of County's rules
- (c) Emergency repairs
- (d) Insufficiency of supply due to circumstances beyond the County's control.
- (e) Legal procedures
- (f) Direction of public authorities
- (g) Strikes, riot, fire, flood, accident or any unavoidable cause.

The County may, in addition to prosecution by law under N.C.G.S. 14-151.1, permanently refuse service to any customer who tampers with a meter or other measuring device.

The County reserves the right to remove the meter from a discontinued service, requiring a complete reconnection with applicable tap-on fee.

XII. Complaints and Adjustments

If the customer believes his bill to be in error, he shall present his claim, in person, at the Utilities Department, before the bill becomes delinquent.

Such claim if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The customer may pay such bill under protest and said payment shall not prejudice his claim.

The customer is entitled to be heard by a designated County employee (at any time prior to termination of service) at a specified time and address if there is any question about the accuracy or legitimacy of the customer's meter readings or billing. See Appendix "C" for the Adjustment Policy.

The County will make special meter readings at the request of the customer for a "Special Meter Reading Fee" provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.

Meters will be tested at the written request of the customer upon payment to the County of the actual cost to the County of making the test provided; however, that if the meter is found to over-register beyond five percent (5%) of the correct volume, no charge will be made.

If the seal of a meter is broken by anyone other than the County's representative or if the meter fails to register correctly or is stopped for any cause, the customer shall pay an amount estimated from the record of his previous bills and/or from other proper data.

XIII. Extensions

Extensions to the county water system may be allowed under the following conditions:

- (1) Extensions will be allowed (or undertaken) after they are shown to conform to County standards and after the projected extension(s) are shown to be compatible with the plans for the ultimate development of the County.
- (2) Proposed extensions shall be designed to provide orderly growth of the County.
- (3) Proposed extensions must be determined to be feasible from the standpoint of maintaining a self-supporting water system.
- (4) Extensions may be made by the County only when funds are available and then only upon the approval and direction of the Board of County Commissioners.
- (5) Extensions may be allowed by individuals, firms, partnerships or developers at their expense or under an agreed upon shared cost with the County under the following conditions:
 - (a) County construction standards are met and plans approved by the Board of County Commissioners as set out under sub-articles 1, 2, and 3 above.
 - (b) All installations shall be made according to specifications of

County, including line sizes and their location, grade, and materials, etc.

(c) All extensions will be designed and constructed in accordance with all applicable North Carolina state laws.

(d) All lines constructed and connected with the facilities of the County under these policies shall become the property of the County upon their completion and connection to the County system. The County shall have exclusive control of all such lines and will assume responsibility for maintenance, repair, and operation.

XIV. Cumberland County Responsibility and Liability

Cumberland County shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served, and for which a tap-on fee then in effect for each size of meter will be charged.

Cumberland County reserves the right to require payment for any service line extending more than immediately adjacent and parallel to the main at the actual cost of installation of the added line; this in addition to the tap-on fee hereto specified.

The County shall install its meter at the property or in a location mutually agreed upon with the property owner.

When two or more meters are to be installed on the same property for different customers, they shall be closely grouped and each clearly designated to which service it applies.

Cumberland County's responsibility for maintenance ends at the meter.

Cumberland County reserves the right to refuse service unless the customer's lines and/or piping are installed in such a manner that prevents cross-connection or backflow.

The County shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the customer's premises, unless such damage results directly from negligence on the part of the County. The County shall not be responsible for the negligence of third persons or forces beyond the control of the County resulting in any interruption of service, or from interruption of service to make repairs and/or other connections.

When possible, the customer will be notified of any anticipated interruption of service.

XV. Customer's Responsibility

Piping on the customer's premises must be arranged so that the connections are conveniently located with respect to the County's lines or mains.

If the arrangement of the customer's piping requires the County to provide multiple meters to provide service, each meter placed will be considered a separate and individual account.

Where a meter is placed on the premises of a customer by mutual agreement, a suitable place shall be provided and accessible at all times to a meter reader.

The customer shall furnish and maintain a pressure reducing valve on their side of the meter.

The customer shall furnish and maintain a private cutoff valve on their side of the meter; the County will provide likewise on its side of the meter.

The customer's piping and apparatus shall be installed and maintained by the customer at their expense in a safe and efficient manner in accordance with the County's rules and regulations and in full compliance with the sanitary regulations of the state.

The customer shall guarantee proper protection for the County's property placed on the customer's premises and shall permit access to it only by authorized representatives of the County.

In the event that any loss or damage to the property of the County or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, his/her agents or employees, the cost of the necessary repairs or replacements shall be paid by the customer to the County; any liability otherwise resulting shall be assumed by the customer.

The amount of such loss or damage or the cost of repairs shall be added to the customer's bill; and if not paid, services may be discontinued by the County.

XVI. Prohibited Activities:

A customer shall not:

- (1) Supply or sell water from the County's system to other persons or carry water away from any hydrant or other such public outlet;
- (2) Manipulate, tamper with, or harm in any manner whatsoever any water line, main, or appurtenance or any other part of the water system; per G.S. 14-151.1
- (3) Tamper with the water meter so as to alter the true reading for the amount of water consumed; per G.S. 14-151.1
- (4) Attach or cause to be attached any connection to the water line before the water meter; and
- (5) Knowingly make any false statement, representation, or certification

in any application, record, report, plan or other document filed or required to be maintained under the Rules and Regulations.

XVII. Abridgement or Modification of Rules

No promise, agreement, or representation of any employee of the County shall be binding upon the County except as it shall have been agreed upon in writing and signed and accepted by the County Board of Commissioners through proper governmental channels.

No modification of rates or any of the rules and regulations shall be made by any agent of the County. This can be done only by the Cumberland County Board of Commissioners.

All prices included in these rules and regulations or their appendices are subject to change at any time, when deemed necessary, by action of the Cumberland County Board of Commissioners.

XVIII. Notification and Connection

Notification:

Cumberland County will notify water users when the lines in their area have been accepted by the County and are available for service.

Connection:

After notification, a connection can be made between the structure and the meter. The Customer will be required to obtain a permit from the Cumberland County Inspections Department. The Cumberland County Inspections Department will then make a physical inspection of the connection and service line. Upon approval, the County will turn on the water connections between the meter and the water user's plumbing system. The user's plumbing system shall meet all applicable requirements of the State Building Code (as it relates to plumbing) including the use of 160-psi service line at a minimum. An approved cut-off valve shall be installed between the meter and the structure. Each user's existing well must be physically disconnected from the County system. State law prohibits the installation of water lines through a septic tank drain field or within ten feet of a septic tank. Water shall not be turned on by anyone other than the County.

XIX. Property Protection

By applying for and receiving water service from Cumberland County, a customer agrees to comply with all applicable county rules, regulations and policies. Each service constitutes a separate service and agreement even if a single customer receives multiple services. The customer agrees to pay for their billing in a timely manner and that the service(s) should have a protective device on it to protect the appliances and property of the customer.

It is the further responsibility of the customer to install a proper water - pressure control device to prevent too much pressure from entering the plumbing lines. (There is a minimum pressure of 30 PSI but no maximum pressure supply.)

XX. Adoption of Rules:

Until further notice of the Board of Commissioners of the County of Cumberland, the rules and regulations hereinabove set out, are hereby adopted as of the date hereof to become effective on and after _____.

APPENDIX “A”

AVAILABILITY FEE

Availability Fee – Non-connected customers	\$12.00
(As referenced in the Cumberland County Water Use Ordinance)	

WATER RATE SCHEDULE

RESIDENTIAL RATE	MONTHLY CHARGE
First 2,000 Gallons	\$22.00 Minimum
Next 4,000 Gallons	\$11.00 per 1,000 Gallons
Next 2,000 Gallons	\$12.00 per 1,000 Gallons
Next 2,000 Gallons	\$13.00 per 1,000 Gallons
Next 40,000 Gallons	\$14.00 per 1,000 Gallons
Next 50,000 Gallons	\$15.00 per 1,000 Gallons
All Over 100,000 Gallons	\$16.00 per 1,000 Gallons
COMMERCIAL RATE	MONTHLY CHARGE
User Fee:	\$33.50
First 50,000 Gallons:	\$13.00 per 1,000 Gallons
Next 50,000 Gallons:	\$14.00 per 1,000 Gallons
Next 900,000 Gallons:	\$15.00 per 1,000 Gallons
All Over 1,000,000 Gallons	\$16.00 per 1,000 Gallons

OTHER FEES

Late Penalty	\$10.00
Activation/Transfer Fee (One-time fee for creating new account or Transferring service to another location)	\$20.00
Reconnect Fee- Business hours (Administrative charge to re-establish service after discontinuance for non-payment)	\$25.00
After-Hours Reconnect Fee (Available until 9:00 pm)	\$75.00
Special Meter Reading	\$10.00

(Performed at request of customer;
no charge if initial reading was over-read)

Meter Verification Fee \$50.00

(Meter removed and taken to testing facility;
performed at written request of customer;
no charge if meter over-registers by more than 5%)

Flow Test \$50.00

*Returned Check Fee \$25.00

+ Amount of check - CASH, MONEY ORDER OR CERTIFIED CHECK ONLY

APPENDIX "B"

TAP FEE SCHEDULE

TAP-ON FEES (To Include Irrigation)

(1) Construction-Phase Rate:

The tap-on fee during the construction of the water distribution system will be as follows:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$50.00
1 inch	\$100.00
Larger than 1"	Standard Rate

(2) Future Services:

Customers not wishing an immediate connection to the water system, but who wish to take advantage of the discounted tap-on fees available during the construction phase may sign up for a "future service" tap at the following rates:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$150.00
1 inch	\$250.00
Larger than 1"	Standard Rate

Future Service rates apply only during the construction phase of the distribution system. With a "Future Service" tap, a meter is not installed until requested by the customer.

(3) Water Laterals

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to any installation of laterals to be connected to the water system. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

(4) Main Extension Charges:

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to extending the main in the water district. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

BILLING POLICY

In order to insure that all customers have a thorough understanding of our policies and procedures for water billing and collections, the Public Utilities Division has prepared the following information. A complete set of the Rules and Regulations for the Public Utilities Division is available upon request.

Meter Reading

Meters are to be read every 28 to 30 days.

Billing

Bills are calculated and mailed as soon as possible after meters are read.

The Public Utilities Division reserves the right to vary billing dates as needed. If you do not receive your bill, please call the Public Utilities Division. We will verify your address and tell you how much you owe. If you desire a duplicate bill, we will mail one to you.

Please make sure that we have your correct address, so that you will receive your bill in a timely manner. Failure to receive your bill will not prevent such bill from becoming delinquent.

Payments

Remit payments to the Public Utilities Division, located in the Historic Courthouse at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. You may pay in the office, or you may mail your payment to Public Utilities Division, P.O. Box 1829, Fayetteville, NC 28302.

All returned checks are subject to a \$25.00 collection charge.

Late Fees

If payment is not received by the 10th of each month which is shown on your bill, a \$10.00 late fee will be added to your account.

Cutoffs

Service will be disconnected if payment of your bill is not received in the Public Utilities Division office by the 24th of the same month. It is not our policy to call customers prior to disconnection of service. In order to maintain fairness to all our customers, we cannot give extensions on bills.

The cutoff list will be generated at 5:01 pm on the day prior to disconnection. If your account is on the cutoff list you will be charged a \$25.00 reconnect fee in addition to the total amount due shown on your bill. This reconnect fee applies to all accounts shown on the cutoff list. Reconnects after hours are available from 5:00 pm until 9:00 pm for a fee of \$75.00.

Questions

If you have any questions regarding billing or service, please call the Public Utilities Division staff at (910) 678-7682.

APPENDIX "C" ADJUSTMENT POLICY

Purpose:

Circumstance may arise where high water consumption occurs due to events beyond a customer's control. Upon a customer's request, Cumberland County Public Utilities will review the facts and consider a billing adjustment on a case-by case basis. Adjustments are limited to one occurrence in a twelve month period per customer account or location. Adjustment requests shall be submitted to the Public Utilities staff at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. Adjustments shall be made as follows:

To qualify:

1. The customer must have been out of town at the time of the leak or the leak must not have been readily evident to a reasonable person (ex.: underground [excluding irrigation], inside a wall or concealed location, crawlspace.).
2. Basic facility fees (flat rate, O&M rider, RSF) still apply.
3. Proper documentation that the leak has been repaired or corrected must accompany the adjustment request (receipt for parts, contractors invoice, etc.).
4. Water only customers- The water consumption must be greater than 200% of the customers previous three month average.

Calculation:

If the conditions above are met, the bill will be reduced to 200% of the average consumption plus 1/3 of the overage. Example: When a customer has an average consumption of 5,000gal and because of a qualifying leak has a consumption of 13,000gal, the bill will be calculated at 200% of 5,000gal = 10,000gal + 1,000gal (1/3 of 3000) = 11,000gal adjusted bill. The adjusted amount over 200% will be billed at the lowest tiered rate.

Other adjustments:

The utilities management staff, at their discretion, shall be authorized to adjust late fees and penalties for customers who are in good standing and have no history of late payments or disconnects.

Adjustments to commercial accounts:

Adjustments must be approved by the Engineering and Infrastructure Director.

Exclusions:

Adjustments will not be made for water loss associated with irrigation systems.

Adjustments will apply to no more than 2 consecutive billing cycles.
Premises left abandoned or vacated without reasonable care for the plumbing system.
Homes under construction or renovation.

IMPORTANT NOTE: A large leak may cost a customer thousands of dollars, whereas a smaller leak may be less than a \$100. A leak adjustment may be requested only once within a 12 month period. If you request an adjustment for any size leak, you will be ineligible for another adjustment for the next 12 months regardless of the size of the future leak.

H. Approval of Delinquent Health Department Accounts to Be Written Off and Turned Over to the N.C. Debt Set-Off Program

BACKGROUND:

At the Board of Health meeting on January 21, 2014, the Board approved writing off a total of \$69,758.18 as bad debts. The bad debt accounts with balances of \$50.00 or higher, will be processed through the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax refund for payment of bad debts. The accounts with balances under \$50.00 will continue to be worked for collection through our in-house collection efforts. This write-off of bad debts is in compliance with the Board of Health's recommendation to write-off bad debts every quarter.

RECOMMENDATION/PROPOSED ACTION:

Management requests to have this item placed on the next County Commissioners' meeting agenda for their approval to write off bad debts in the amount of \$69,758.18.

CUMBERLAND COUNTY DEPARTMENT
OF PUBLIC HEALTH
DELINQUENT ACCOUNTS TO BE TURNED OVER FOR COLLECTION
BAD DEBT WRITE OFF #39
January 15, 2014

PROGRAM	AMOUNT
ADULT HEALTH	\$36,823.01
BCCCP	\$77.80
CHILD HEALTH	\$9,717.28
DENTAL	\$5,005.12
DIABETES CLINIC	\$1,431.08
EXPRESS CARE	\$1,419.26

FAMILY PLANNING	\$8,051.80
MATERNITY	\$6,341.78
PAP	\$891.05
TOTAL	\$69,758.18

All bad debt accounts with balances of \$50.00 or higher, will be sent to the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax Refund for payment of bad debts.

The above accounts are 90 days old or older as of January 1, 2014

- I. Approval of Payment of Past Year Invoice for Contracted Services Rendered to the Cumberland County Public Health Department by Corvel Corporation

BACKGROUND:

The Cumberland County Department of Health has requested approval to pay a FY2013 invoice in the amount of \$715.48 for contracted services provided by Corvel Corporation. Procedures have been put in place to minimize the chance of reoccurrence.

RECOMMENDATION/PROPOSED ACTION:

Recommend approval to pay the above invoice in the amount of \$715.48 and approval of the associated budget revision.

- J. Approval of Payment of Past Year Invoice for Autopsy and Investigation Services Rendered to Cumberland County by the NC Department of Health and Human Services

BACKGROUND:

The Cumberland County Department of Public Safety has requested approval to pay a FY2013 invoice in the amount of \$11,300.00 for autopsy and investigation services provided by the Office of Chief Medical Examiner, NC Department of Health and Human Services. Procedures have been put in place to minimize the chance of reoccurrence.

RECOMMENDATION/PROPOSED ACTION:

Recommend approval to pay the above invoice in the amount of \$11,300.00 and approval of the associated budget revision.

- K. Approval of a Proclamation Recognizing Wes and Sandy Cookman

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, WIDU 1600 AM signed on the air in 1958 and was purchased by Wes Cookman in 1987, at which time the format changed to inspirational gospel music

and information about local community issues and concerns through talk shows and local news programs; and

WHEREAS, Wes and Sandy Cookman also own and operate WEWO in Laurinburg, North Carolina, and WAGR in Lumberton, North Carolina; and

WHEREAS, Wes and Sandy Cookman host WIDU's "Wake Up" talk show; and

WHEREAS, Wes and Sandy Cookman owned and operated WPJS Broadcasting, Inc. since 1990 and gave WPJS Broadcasting, Inc. to William J. Parrish, a college friend, in 1995; and

WHEREAS, Wes and Sandy Cookman have been committed to this community because they truly believe "this community is not great for any of us until it is great for all of us"; and

WHEREAS, Wes Cookman was a 2010 recipient of the Order of the Long Leaf Pine, a prestigious award presented by the Governor of North Carolina to individuals who have a record of extraordinary service and contributions to their community.

NOW THEREFORE, BE IT PROCLAIMED, that We, the Cumberland County Board of Commissioners, do hereby recognize Wes and Sandy Cookman and extend our appreciation to them for the many contributions they and WIDU 1600 AM have made to our Cumberland County community.

Presented this 9th day of February, 2014.

L. Budget Revisions:

(1) Employee Pharmacy

Revision in the amount of \$750,000 to recognize insurance rebates received from prescription purchases. (B14-252) Funding Source – Insurance

(2) Community Development

PATH Program - Revision in the amount of \$3,600 to recognize additional State funding. (B14-249) Funding Source – State Grant

(3) Tax Administration

Revisions in the total amount of \$485,925 to appropriate fund balance to fund tax audits conducted by Tax Management Associates in the amount of \$4,804 and County Tax Services Inc in the amount of \$481,121. (B14-261 and B14-261A) Funding Source- Fund Balance Appropriated

(4) Health

- a. Health Promotion - Revision in the amount of \$6,789 to recognize additional State funding to support increased physical activity and promote healthy eating in Cumberland County. (B14-255) Funding Source- State
- b. Family Planning Clinic - Revision in the amount of \$34,861 to recognize additional State funding (\$31,861) to support Out of Wedlock Birth Prevention Activities and additional fees (\$3,000) expected to be earned, to purchase birth control. (B14-254) Funding Source – State and Fees
- c. Jail Health - Revision in the amount of \$150,000 to appropriate fund balance for unanticipated high medical expenses for inmates extended hospital stays and increase in need of HIV medications. (B14-260) Funding Source –Fund

(5) Elections

Revision in the amount of \$22,000 to appropriate fund balance to purchase 23 replacement laptops and printers to be used at the 7 One-Stop locations. (B14-263) Funding Source – Fund Balance

(6) Bragg Estates Sewer Project

Revisions in the amount of \$33,000 to reallocate budgeted expenditures from General Fund Water and Sewer to provide initial funding for a new capital project fund for Bragg Estates Sewer Project. (B14-262 and B14-262A) Funding Source – Reallocation of Budgeted Expenditures

Commissioner Keefe inquired regarding Item 2.L.(1) and the savings realized by the Employee Pharmacy. Amy Cannon, Deputy County Manager, stated on certain pharmaceutical purchases the county receives rebates from insurance companies. Ms. Cannon further stated the actual volume of pharmaceutical purchases was not know during budget season but it now appears that amount will be \$750,000 through June 30th. Ms. Cannon stated last year \$500,000 was realized for a partial year.

MOTION: Commissioner Keefe moved to approve consent Item. 2.A. – 2.L.(6)
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (7-0)

ITEMS OF BUSINESS

- 3. Presentation of North Carolina Families Accessing Services through Technology (NC FAST) Update by Brenda Reid Jackson, DSS Director

BACKGROUND:

Recorded below is a copy of North Carolina Association of County Directors of Social Services (NCACDSS) NC FAST Briefing Paper that provides a good overview of NC FAST and recent actions to improve the roll-out of this new system. Specifics in regards to Cumberland County will be provided on February 3rd as will more current information on actions by the state related to the recommendations set forth by NCACDSS. Every attempt is being made to keep the Social Services Board, County Management and Community Partners aware of NC FAST related issues.

RECOMMENDATION/PROPOSED ACTION:

For Information Purposes Only

NC FAST Briefing Paper
January 2014

NC FAST is the acronym for North Carolina Families Accessing Services through Technology. It is a software tool designed to improve the way the Social Services in our 100 Counties do business. Through its partnership with the North Carolina Department of Health and Human Services (DHHS), County Departments of Social Services (DSS) play a critical role in the Success of NCFAST. When completely implemented, NCFAST will have replaced numerous legacy systems used by County Departments of Social Services with a single uniform method to determine eligibility for families in need of supportive services. NCFAST is one of the largest technology projects in the history of Social Services in North Carolina. We expected that there would be challenges (as with any technology rollout). However, due to our current progress, it is very difficult for County staff and consumers alike.

NCFAST will benefit consumers when completed because they will not have to spend unnecessary time away from work in DSS offices waiting to meet with several different people regarding different eligibility programs for which they might qualify. The vision is for consumers to provide all their information in one sitting, to one person, telling their story only once.

The first phase of NCFAST was food and nutrition services (FNS), formerly known as food stamps. While it was a rocky start, after this inaugural launch, Counties eventually became successful at taking new applications in NCFAST. However, in July DHHS added their Medicaid module in preparation for the Affordable Care Act. Even though North Carolina did not expand Medicaid, states had to implement new systems to interface with the Federal Funded marketplace. This required more information that needed to be gathered than just FNS, which caused issues with the system regarding functionality. Because it is a multipurpose tool, NCFAST does require DSS workers to get more information from the individuals. DHHS has worked closely with Counties to provide hands-on training with the tool as well as on-site support.

Counties have experienced a slowdown in productivity since the roll out of NCFAST. There are multiple reasons for this. In the meantime, Counties are doing a good job of directing individuals who are experiencing delays to resources in their communities or providing bridge support until their benefits are reinstated. However, DHHS continues to make modifications to NCFAST and our vision is that it will eventually provide Counties with a seamless system that creates efficiencies and improves outcomes for citizens. It will hopefully also provide important data needed by counties.

County Directors of Social Services are dedicated to helping our most vulnerable individuals and families. A robust case management system for all social services eligibility programs is imperative and must remain one of North Carolina's highest nonpartisan priorities. We want nothing more than to see a successful NCFAST system. However, we must continue to press on in order to achieve success. The North Carolina Association of County Directors of Social Services (NCACDSS) had critical meetings with DHHS leadership last week and feels that great progress was made addressing needed next steps going forward. These include: a recommendation to delay any further system hard launches until we fix the known defects within the system; postpone schedule training on next phases and redeploy staff to address such issues; develop key metrics that must be met prior to any future hard launches occurring; requesting an extension from the federal government regarding the ACA; provide tools to counties to help address the USDA request; ask for clarification from the federal government regarding the status of applications on hold in the federally funded marketplace; and improving the data in NCFAST to ensure that it is accurate. While the backlog of cases has been managed, the goal now is for everyone to work toward processing times and timeliness in NCFAST according to USDA standards.

DHHS is correct when they said that "NCFAST is successful only if the ability of the caseworker at their computer is able to work the system efficiently. The priority is to extend the pilots until we get it right." While it has not been easy, we appreciate being heard by DHHS leadership and their willingness to help us reassess where we are. We feel certain that this will maintain transparency and ensure that both DHHS and Counties are working together as we continue down this path. NCACDSS welcomes the opportunity to work with our Legislators and County Partners to enhance North Carolina's Case Management System known as NCFAST.

Chairman Council asked Brenda Reed Jackson, Department of Social Services (DSS) Director, to explain concerns that have come to the Cumberland County Department of Social over the past few months. Ms. Jackson recognized Heather Skeens, DSS Deputy Director, and stated the NC FAST and ePASS automated systems were designed to improve customer access to the federal public assistance programs and create an updated technology system for county DSS to determine eligibility. Ms. Jackson explained these systems also would allow customers to access public assistance programs electronically and remotely.

Mr. Jackson stated the new systems began rolling out in the Food and Nutrition (food stamps) programs in Cumberland County around November, 2012 and the initial roll-out was challenging and created delays in Social Service's ability to provide these services to citizens in a timely manner. Ms. Jackson explained this included Social Service's ability to timely process applications for citizens applying for benefits and to conduct the mandated recertification of benefits for existing customers.

Ms. Jackson stated Social Services experienced additional challenges with NC FAST due to system enhancements that further increased the backlog. Ms. Jackson stated in August, 2013, she came before the board of commissioners to provide a briefing on the new service delivery model, the automated eligibility systems and its impact on citizen's ability to receive their services in a timely manner. Ms. Jackson stated she also shared with the board of commissioners upcoming federal changes related to the Affordable Care Act and the new mandates related to Medicaid services that would begin in October, 2013 expanding through 2014.

Ms. Jackson stated the Department of Social Services was concerned about ongoing workloads, delays in providing citizens services in a timely manner and challenges with the new automated systems. Ms. Jackson stated since October, 2013, the federal shutdown, the USDA food stamp compliance mandate to N.C. and their threat to withhold federal funds have occurred. Ms. Jackson stated the most recent agency closing and delays due to inclement weather have also impacted two and a half days of productivity.

Ms. Jackson reported on January 24th when the USDA mandate was issued, Social Services had 1,766 cases in the backlog, and Social Services was able to reduce these numbers after closing for two and a half days due to inclement weather last week because thirty workers processed cases during the agency closing and on Saturday from their homes. Ms. Jackson stated the state report this past Saturday indicated Social Services had 876 applications remaining and had completed all the recertifications. Ms. Jackson stressed these numbers will change as cases move from current processing time to the backlog based on pending workload. Ms. Jackson explained the current Social Services work schedule and stated last week after the agency closing, Social Services expressed in writing to NC DHHS its concerns about meeting the deadline, and on February 2nd Social Services confirmed its need for additional assistance from the State in meeting the deadline. Ms. Jackson stated the state was responsive and Social Services currently has five state staff present and anticipate more will be deployed to provide assistance.

Questions followed. Chairman Council suggested the board of commissioners express its concern about the inclement weather's impact on productivity and meeting the deadline.

MOTION: Commissioner Edge moved that staff develop a resolution expressing the board's concern over the impact of inclement weather on Cumberland County's ability to meet the deadline and send the resolution to the state.
SECOND: Commissioner Melvin
VOTE: PASSED (6-1) (Commissioner Melvin, Edge, Council, Faircloth, Keefe, and King voted in favor; Commissioner Evans voted in opposition)

Commissioner Evans explained he voted in opposition because when considering the chairman's current obligations, he felt the vice chairman rather than the chairman could assist in the effort.

4. Presentation on the Cumberland County Strategic Plan by Sally Shutt, Communications and Strategic Initiatives Manager

BACKGROUND:

The Board of Commissioners adopted the county's 2013-2014 Strategic Plan on April 15, 2013. An update will be presented on the county's progress in meeting the five goals outlined in the plan since the last report on November 4, 2013.

RECOMMENDATION/PROPOSED ACTION:

The report is presented for information purposes only.

Cumberland County 2013-14 Strategic Plan UPDATE

GOAL 1: Ensure a safe and healthy community by providing needed services to our citizens in a timely manner.

- Detention Center Expansion dedication ceremony takes place at 11 a.m. February 3, 2014.
- The Community Mental Health Center at Cape Fear Valley moved from 109 Bradford Avenue to 1742 Roxie Avenue and began seeing patients there on January 27, 2014.
- The Crisis Evaluation Service at the Community Mental Health Center is scheduled to open the first week of February.
- The Emergency Services consultant completed the P25 console upgrade study and bid specs for the 911 Communications Center. The bid process and installation are expected to be complete by April 30, 2014. The state anticipates switching to P25 in June or July 2014.
- Sheriff's Office received accreditation from the Commission on the Accreditation of Law Enforcement Agencies.
- A grant to support the Sobriety Court received final approval in December 2013. Total federal grant funds total \$71,353 and the local match is \$12,591.
- The Board of Commissioners approved moving forward with a Governor's Crime Commission grant application for a Veterans' Treatment Court and committing available county funds that had been budgeted for Sobriety Court to cover the 25 percent match.
- Nine additional School Resource Officers were approved for elementary schools. The Board of Education will fund 83 percent and the Sheriff's Office 17 percent of cost.
- Effective January 1, 2014, smoking is not allowed anywhere on 15 county properties. Phase II goes into effect July 1, 2014, and covers the Courthouse, Law Enforcement Center, Sheriff's Office, Detention Center and Animal Control.
- Department of Public Health submitted the 2013 Community Health Assessment to the State for approval and started the Baby Store incentive program in January 2014.
- The youth component of the Citizens' Academy will be held this summer during Cooperative Extension's 4-H summer fun classes.
- The Department of Social Services increased temporary staff to assist with NC FAST Phase 2 implementation. In preparation for expanded use of the state's NC FAST system, DSS continued the state's Work Support Strategies service delivery initiative, which allows citizens to tell their story once to receive the services for which they are eligible. DSS Director and staff met with Community Partners to make them aware of the challenges DSS is facing with NCFASST issues and Affordable Care Act.
- Various departments conducted educational and outreach programs. Highlights include:
 - Cumberland County Cooperative Extension implemented the Steps to Health, a nine- lesson supplemental Nutrition Assistance program, which has reported 100 percent of kindergarteners improving their overall nutrition knowledge and 92 percent of second- grade parents observing an increase in their child's physical activity.
 - In the last quarter of 2013, the library presented 22 programs for all ages on health-related and/or abuse prevention topics, with a total attendance of 577; and presented 11 programs for children and young adults related to the theme of Citizenship, with a total attendance of 678.
 - Health Departments sections taught classes on topics such as diabetes self-management, nutrition, physical activity, injury prevention, prenatal education, parenting, family planning, HIV and sexually-transmitted infection prevention.

GOAL 2: Provide adequate infrastructure consistent with orderly growth of a dynamic county.

- Bragg Estates Water and Sewer District was created in December 2013.
- Public Utilities submitted funding application to U.S Department of Agriculture for Overhills Park Water and Sewer District sewer project.
- With the departure of the Community Mental Health Center from 109 Bradford Avenue, building renovations can begin, which will give Child Support more space and increase client privacy.
- DSS purchased additional signage to better direct citizens.
- Information Services is finalizing the three-year comprehensive countywide technology plan and has completed Phase II (Spring Lake, Cooperative Extension and Planning) of the three-phase telecommunications plan.

GOAL 3: Promote economic development by creating and retaining jobs, and providing career opportunities, quality education, cultural and recreational services.

- Crown Coliseum Tourism Overlay Plan: County Planning Department is coordinating with City Planning on the proposed amendments and getting them before the respective planning boards, commissions and governing bodies.
- Southwest Cumberland County Land Use Plan was approved by Board of Commissioners.
- Planning Department is working on the Gray's Creek Area Study.
- Two upcoming job fairs: Headquarters Library on March 12, 2014, and the March to Work event on March 27, 2014, at the Crown Expo Center, coordinated by the Department of Social Services Work First program.
- Cooperative Extension's Farmers Market feasibility study is nearing completion and will be presented on February 24, 2014. Citizens are encouraged to participate in an online survey.
- In cooperation with the Center for Environmental Farming Systems, Cumberland County Cooperative Extension is working closely with a program called "N.C. Growing Together," which is working to get more local food sold in mainstream markets. Fort Bragg is one of the target markets. Cooperative Extension is also cooperating with the 10% Campaign and Fayetteville State University in promoting the purchase of local foods by FSU faculty and staff through the Local Foods Ambassador Program.
- Master Gardener Volunteers are working with the Second Harvest Food Bank on a community garden to teach citizens how to grow their own healthy foods.
- During the last quarter of 2013, the Cumberland County Public Library & Information Center presented 1,122 programs to the public, with an aggregate attendance of 26,495. The library conducted eight small business programs for 90 participants and 30 job and career programs to help 263 job seekers improve their job searching and employability skills. The Online Job and Career Center Resource Center received 3,408 visits and approximately 30,000 searches were conducted utilizing the library's job and career related databases.

GOAL 4: Educate, inform and engage employees, citizens, elected and appointed officials through effective and efficient communications.

- Board of Commissioners meetings are now streamed live and available via the county's website.
- The next Citizens' Academy runs March 18-May 6, 2014.
- An Appointed Boards Information Session will be held February 4, 2014.

- Three commissioners have been appointed to the Fayetteville-Cumberland County Liaison Committee, which met on January 17, 2014.
- County, City of Fayetteville and the Fayetteville Regional Chamber are continuing the Federal Advocacy Program partnership and developing a federal agenda and strategy to meet those goals. The Chamber has contracted with FaegreBD on behalf of the partnership and a workshop is scheduled on February 18, 2014.
- Outreach initiatives conducted by county departments:
 - During the last quarter of 2013, library staff published electronic resources (Lib Guides) on College Resources for Teens; Accessibility and Assisted Services offered by the library; and the library's Writers' Workshop. The library hosted a public forum on Human Trafficking in North Carolina; a Senior Health Information Fair; and three sessions of the Let's Talk About It reading and discussion series on "Altered Landscapes: North Carolina in a Changing World."
 - Since the creation of "Friends of the Animal Shelter" Facebook page, it has 1,415 likes.
- Internal communications:
 - DSS will hold its semi-annual "All Staff Information Sessions" in February 2014.
 - Information Services developed an online wellness incentive tracking program and updated the online training registration system to improve ease of use.
 - Updated Human Resources policies are in Legal for review.

GOAL 5: Employ motivated, professional and well-trained personnel who offer excellent customer service with PRIDE – Professionalism, Respect, Integrity with accountability, Diversity and Excellent Customer Service.

- The county contracted with Frank Horton Associates for the Employee Assistance Program. The program is being promoted to staff via monthly newsletters and posters in all staff areas.
- New Assistant County Manager for Auxiliary Services started January 13, 2014.
- Library Director Jody Risacher was named Library Director of the Year by the North Carolina Public Library Directors Association.
- Deputy Public Health Director Rod Jenkins received an award from the North Carolina Public Health Association for Outstanding Contributions to Social Work in Public Health.
- Department of Public Health started a quarterly newsletter, The Scoop, which features new hires as well as activities of employees.
- Beginning in July 2014, Finance Department accountant staff will begin the education and testing process to achieve Certified Local Government Finance Officer status.
- The DSS Economic Services Section will participate in the Classification Study for their area in early 2014. They did not participate earlier with the rest of DSS because of state-related changes taking place within their area at the time. Implementation date is May 2014.
- DSS HR department continued efforts to develop a comprehensive on-going agency orientation plan.
- DSS received a grant from the Annie E. Casey Foundation to cover the cost of Permanency Roundtable training for Children's Services staff.

Sally Shutt, Public Information Director, presented highlights of the 2013-14 Strategic Plan goals as follows:

Ensure a Safe and Health Community

- Detention Center Expansion ceremony – February 3, 2014
- Community Mental Health Center at Cape Fear Valley – January 27, 2014
- Crisis Evaluation Service expected to begin in early February, 2014
- Sheriff's Office Accreditation
- Sobriety Court grant received
- Veterans' Treatment Court grant sought, match by county approved

Provide Adequate Infrastructure

- Bragg Estates Water and Sewer District created
- Overhills Park Water and Sewer District funding application submitted to USDA
- IS completed Phase II of telecommunications plan and is finalizing the three-year technology plan
- Renovations can now begin at 109 Bradford Avenue for increased Child Support space

Promote Economic Development

- County Planning is coordinating with City Planning on Crown Coliseum Tourism Overlay Plan
- Southwest Cumberland Land Use Plan approved
- New land use study on Gray's Creek Area
- Job Fairs: March 12 and March 27
- Farmers Market feasibility study to be presented on February 24; online survey now available

Educate, Inform, Engage

- Live streaming of meetings
- Appointed Boards Information Session February 4, 2014
- Citizens Academy – March 18-May 6, 2014
- Federal Advocacy Program partnership continues; February 18, 2014 workshop
- Fayetteville-Cumberland County Liaison Committee meeting each month

Employ Motivated Professional and Well-trained Personnel

- Contract with Frank Horton Associates for Employee Assistance Program services
- New Assistant County Manager
- State honors for Library Director and Deputy Health Director
- DSS Economic Services Section will participate in classification study in early 2014; May implementation date
- Grant is covering Permanency Roundtable training for DSS Children's Services staff

Ms. Shutt concluded her presentation. Questions and comments followed.

5. Consideration of Voice Interoperability Plan for Emergency Responders (VIPER) by Randy Beeman, Emergency Services Manager

BACKGROUND:

VIPER acquisition occurred in 2009 and 2010. The state maintains communication tower equipment and provides the services at no cost. North Carolina VIPER communication is

functioning within the parameters of 95 percent street coverage throughout Cumberland County. Prior to acquisition of VIPER, communications were inadequate outside the corporate limits of Fayetteville when utilizing City of Fayetteville communication towers.

VIPER is not utilized by all emergency services agencies throughout North Carolina and most but not all utilize the digital 800 megahertz systems and there are other communication systems utilizing other digital frequencies such as 700 megahertz (VHF direct communication system) and still other agencies without digital systems.

Cumberland County is fortunate to have a direct wire connection to the VIPER network Smart Zone (computer software/hard-wired situation) allowing greater communication to our responding agencies. There is no maintenance costs associated with our current system.

Currently the county utilizes several towers through the VIPER network. These towers include Lumber Bridge, Slocum, McCain, Time Warner Cable, Cedar Creek, Spout Springs, Salemburg and Erwin. The county participated with the state VIPER communication equipment on Lumber Bridge, Slocum, Time Warner Cable and Cedar Creek.

Currently Project 25 (P25) console upgrade RFP is on schedule and bid opening and selection will be complete within two weeks. The vendors must complete the installation no later than April 30, 2014 according to correspondence from Mike Hodgson, VIPER System Manager. Accordingly NC VIPER System Manager expects P25 cutover June or July 2014.

P25 targeted four primary objectives:

- Allow effective, efficient, and reliable intra-agency communications...so organizations can easily implement interoperable and seamless joint communications in both routine and emergency circumstances
- Ensure competition in system life cycle procurements...so agencies can choose from multiple vendors and products, ultimately saving, money and gaining the freedom to select from the widest range of equipment and features.
- Provide user-friendly equipment...so users can take full advantage of their radios 'lifesaving capabilities on the job-even under adverse conditions – with minimal training.
- Improve radio spectrum efficiency...so networks will have enough capacity to handle calls and allow room for growth, even in areas where the spectrum is crowded and it's difficult for agencies to obtain licenses for additional radio frequencies.

Cumberland County communication center is connected to the North Carolina State Voice Interoperability Plan for Emergency Responders (VIPER) system and the center currently operates on an 800 megahertz (MHZ) Smart Zone trunked radio system. The VIPER system network is maintained by the North Carolina Highway Patrol. The connection is specialized as a hardwire connection by use of fiber cable from the communication center to the network site. This provides enhanced communication features for public safety.

RECOMMENDATION/PROPOSED ACTION:
Information only.

Randy Beeman, Emergency Services Manager, reviewed the background information as recorded above, to include the four primary objectives of P25. Mr. Beeman stated 95% of all

communication is covered through the VIPER system via the networking of the various towers. Mr. Beeman also stated P25 will allow all emergency service and public safety users to communicate readily and freely on the system, thereby eliminating limitations posed by the previous system. Mr. Beeman responded to questions and stated county volunteer fire services, Cape Fear Valley emergency medical services, Cumberland County Sheriff's Office and the towns of Spring Lake and Hope Mills utilize the VIPER system. Mr. Beeman also stated Cumberland County has the city of Fayetteville's channels within its communications center in order to seamlessly communicate and remain interoperable.

Commissioner Council inquired regarding the cost to utilize the Durham system that the city of Fayetteville utilizes. Mr. Beeman stated a rough estimate for revamping the county's communications' network or backbone would be from \$1.2 to \$2.1 million and there would be a yet to be determined maintenance fee. Mr. Beeman explained the county is spending from \$500,000 to \$1 million upgrading to the P25, and the projected costs are taken care of through the acquisition of surcharge monies.

6. Consideration of Recommendation from County Attorney to Reconsider Zoning Case No. P13-45

BACKGROUND:

The plaintiffs in the two lawsuits contesting the first and second permits issued for the TigerSwan firing range have filed a third suit challenging the action taken by the Board of Commissioners in case no. P13-45 on October 21, 2013. With that action the Board rezoned the property leased by TigerSwan for outdoor firing range and agricultural uses with conditions with an added condition concerning operating hours consistent with the Planning Board's recommendation. The county attorney believes the new lawsuit raises two issues which need to be considered and clarified by the Board.

FIRST ISSUE: WHAT IS THE MEANING OF THE SPECIAL USE LANGUAGE INCLUDED IN THE FORM APPLICATION?

At the public hearing conducted on October 21, 2013, Robin Currin, attorney for the plaintiffs in the three lawsuits, stated that TigerSwan had agreed to follow special use requirements. Her statement was in reference to the language in TigerSwan's application for conditional zoning that was retained from the prior application form for a conditional use district and conditional use permit. That language was left in the form application by oversight and is not related to the current ordinance requirements or to the TigerSwan firing range rezoning. The ordinance was amended on April 18, 2011 to eliminate conditional use districts and permits in favor of conditional zoning. This was a significant ordinance change because the conditional zoning district required that the Board conduct a quasi-judicial hearing; however, the current conditional zoning approach is a legislative process and decision.

The specific language contained in the application that is the cause of this confusion is as follows:

In order for the Planning Board to offer a favorable recommendation, and for the Board of Commissioners to approve, any Conditional Zoning District, they must find from the evidence presented at their respective hearing that:

- A. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
- B. The use meets all required conditions and specifications;
- C. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
- D. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Comprehensive Land Use Plan and adopted planning policies

This language does not apply to conditional zoning by the Board of Commissioners and is now limited only to consideration of applications for special use permits by the Board of Adjustment under Section 1606 of the ordinance. A memorandum from the Planning Director is attached to further explain the reason this language was in the form application submitted by TigerSwan. TigerSwan used the application form provided by planning staff. Neither TigerSwan nor planning staff intended to impose the former special use requirements by the application form.

SECOND ISSUE: DID THE BOARD PROPERLY ADOPT A CONSISTENCY AND REASONABLENESS STATEMENT?

When the Board conducted the public hearing in this case and took action on October 21, 2013, the county attorney failed to advise the Board to make separate motions with respect to the adoption of the consistency and reasonableness statement and the approval of the conditional zoning request. G.S. 153A-342 requires that "[p]rior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest." A consistency and reasonableness statement was included in the recommendation from the Planning Board, was stated by the Planning Director in his presentation to the Board, its terms were generally discussed by some commissioners during consideration of this matter, and the planning board's recommendation was adopted by the Board as its own; however, it may not be clear in the record that the consistency and reasonableness statement was adopted prior to the approval of the conditional rezoning request.

The consistency and reasonableness statement that was presented by Planning Director Tom Lloyd at the October 21, 2013 meeting for the Board's consideration is as follows:

- 1. The request for A1 Agricultural and the use as an outdoor firing range coupled with the continued farming of the subject property is consistent with the 2030 Growth Vision Plan and Growth Strategy Map, which designates the area where the subject property is located as "rural" and is also consistent with the mandated location criteria for "agricultural" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;
- 2. The specific requested use of an outdoor firing range, evidenced by the application, site plan and supplemental documents, along with the attached Ordinance Related Conditions is reasonable as all of the provisions listed in the text amendment approved by the County Commissioners on June 17, 2013, including all other zoning ordinance standards, for outdoor firing ranges is met or exceeded; and

3. If developed according to the recommended plan, the use will not materially endanger the public health or safety as it is designed and constructed to be consistent with the safety guidelines of the US Department of Energy's Range Design Criteria as documented by a licensed professional engineer and included with the application and the range complex is in harmony with the area in which it is to be located.

RECOMMENDATION/PROPOSED ACTION:

In fairness to the plaintiffs who are challenging this conditional zoning, the county attorney recommends and respectfully requests that the Board reconsider its action in case P13-45 taken after the public hearing conducted on October 21, 2013 to clarify and clearly express the Board's intent with respect to the two issues discussed above. Under the Board's adopted rules, a motion for reconsideration may only be made in the same meeting at which the motion to be reconsidered was made, thus the Board must approve a motion to suspend its rules in order for one of the commissioners to make a motion for reconsideration of the decision in case P13-45. Under the Board's adopted rules, a motion to suspend the rules requires passage by a two-thirds majority, or five votes.

If five commissioners will consent to suspend the Board's rules and a majority of the Board will vote to reconsider the action taken in case no. P13-45, the county attorney recommends that the Board take action as follows:

First Procedural Motion: To suspend the Board's adopted rules.

Second Procedural Motion: To reconsider the action taken after the public hearing conducted on October 21, 2013 in case no. P13-45.

First Substantive Motion: That the Board acknowledges it has considered the information provided in the memos included with this agenda from the county attorney and the planning director with respect to the inclusion of the requirements formerly applicable to the approval of conditional use districts in Section 7 of the application of TigerSwan, Inc.; finds that those requirements stated in Section 7 are not required by the *Cumberland County Zoning Ordinance*; and does not impose those requirements to its consideration of the rezoning request made by TigerSwan, Inc., in case no. P13-45.

Second Substantive Motion: That in case no. P13-45, the Board adopts the consistency and reasonableness statement presented by Planning Director Tom Lloyd at the meeting held October 21, 2013 and as restated in the memo from the county attorney provided with this agenda specifically as follows:

1. The request for A1 Agricultural and the use as an outdoor firing range coupled with the continued farming of the subject property is consistent with the 2030 Growth Vision Plan and Growth Strategy Map, which designates the area where the subject property is located as "rural" and is also consistent with the mandated location criteria for "agricultural" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;
2. The specific requested use of an outdoor firing range, evidenced by the application, site plan and supplemental documents, along with the attached Ordinance Related Conditions is reasonable as all of the provisions listed in the text amendment approved by the County Commissioners on June

- 17, 2013, including all other zoning ordinance standards, for outdoor firing ranges is met or exceeded; and
3. If developed according to the recommended plan, the use will not materially endanger the public health or safety as it is designed and constructed to be consistent with the safety guidelines of the US Department of Energy's Range Design Criteria as documented by a licensed professional engineer and included with the application and the range complex is in harmony with the area in which it is to be located.

Third Substantive Motion: That in case no. P13-45, the Board ratifies and confirms its action taken on October 21, 2013, to follow the recommendation of the Joint Planning Board to approve A1/CZ for outdoor firing range and agricultural uses with conditions and to specifically adopt and approve all of the Planning Board's findings of reasonableness and consistency with the LUP and to impose the additional condition regarding hours of operation as consented to by the applicant.

Rick Moorefield, County Attorney, reviewed the background information as recorded above and stated at the public hearing on October 21, 2013, during which the board considered the application of TigerSwan for an outdoor firing and agricultural use in Case P13-45, there was discussion by the plaintiffs' attorney about the language in Section 7 of TigerSwan's application. Mr. Moorefield stated although the application language is really of no substance because it is not required by the zoning ordinance, it probably does create some confusion.

Mr. Moorefield stated in April, 2011, the board approved an amendment to the zoning ordinance that eliminated conditional use districts/conditional use permits as a quasi-judicial process and moved to conditional zoning as a legislative process. Mr. Moorefield stated Planning staff changed the language of the application form consistent with action by the board in some instances but due to an oversight, the language in Section 7. of the application form was not changed but was only relevant to the former conditional use district/conditional use permit. Mr. Moorefield stated the board of commissioners no longer has the authority under the ordinance to consider or to impose those requirements and his understanding based on discussions with Planning staff, the Planning Board and TigerSwan is that there was never any intent by anyone that those former requirements would apply to the current application. TigerSwan merely filled out the form application that was provided to them.

Mr. Moorefield stated the same plaintiffs that filed the first two lawsuits in this zoning matter filed a third lawsuit, and the language in Section 7. of the application form is one of the issues in the third lawsuit. Mr. Moorefield stated in fairness to the plaintiffs, he recommended that the board reconsider the action it took in October, 2013 to clarify for the record whether the board really intended that the special use conditions be made applicable to TigerSwan in an effort to minimize the litigation that will apparently continue in this matter.

Mr. Moorefield stated under the Board's Rules of Procedure as adopted August 17, 2009, the board would have to suspend its rules in order to make a motion to reconsider in this case. Mr. Moorefield stated if there are not five votes to suspend the Rules of Procedure, the board of commissioners could by majority vote also make a direct motion to reconsider.

Mr. Moorefield stated a second matter raised in the lawsuit is whether the board of commissioners properly adopted a consistency and reasonableness statement when it considered

case P13-45. Mr. Moorefield stated the consistency and reasonableness statement was provided in the minutes from the Planning Board as contained in the board of commissioners' agenda packet, was provided in the memorandum and stated by the Planning Director in the presentation on October 21, 2013 and was adopted and minutes were approved unanimously for the adoption of the consistency and reasonableness statement. Mr. Moorefield stated the record is not clear whether the consistency and reasonableness statement was technically adopted prior to the board's taking action and he should have advised the board to have made a second or earlier motion to do so. Mr. Moorefield reviewed his recommendations for actions the Board could consider to clarify the record and stated this is significant because of pending litigation. Mr. Moorefield advised the Board could not change the decision it made on October 21, 2013 in case number P13-45 without conducting another public hearing but that it could proceed with the actions to clarify the record if it intended to maintain the action taken on October 21st and do so without conducting another public hearing.

Mr. Moorefield responded to questions posed by Commissioner Evans.

MOTION: Commissioner Keefe moved to suspend the Board's adopted rules.
SECOND: Commissioner King
VOTE: PASSED (5-2) (Commissioners Edge, Council, Faircloth, King and Keefe voted in favor; Commissioners Evans and Melvin voted in opposition)

MOTION: Commissioner Keefe moved to reconsider the action taken after the public hearing conducted on October 21, 2013 in case number P13-45.
SECOND: Commissioner King

DISCUSSION: Commissioner Evans expressed concern that the Board was acting hastily.

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

MOTION: Commissioner Keefe moved that the Board acknowledges it has considered the information provided in the memos included with this agenda from the county attorney and the planning director with respect to the inclusion of the requirements formerly applicable to the approval of conditional use districts in Section 7 of the application of TigerSwan, Inc.; it finds that those requirements stated in Section 7 are not required by the *Cumberland County Zoning Ordinance*; and does not impose those requirements to its consideration of the rezoning request made by TigerSwan, Inc., in case number P13-45.

SECOND: Commissioner Edge

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

MOTION: Commissioner Keefe moved that in case number P13-45, the Board adopts the consistency and reasonableness statement presented by Planning Director Tom Lloyd at the meeting held October 21, 2013 and as restated in the memo from the county attorney provided with this agenda specifically as follows:

1. The request for A1 Agricultural and the use as an outdoor firing range coupled with the continued farming of the subject property is consistent with the 2030 Growth Vision Plan and Growth Strategy Map, which designates the area where the subject property is located as “rural” and is also consistent with the mandated location criteria for “agricultural” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;
2. The specific requested use of an outdoor firing range, evidenced by the application, site plan and supplemental documents, along with the attached Ordinance Related Conditions is reasonable as all of the provisions listed in the text amendment approved by the County Commissioners on June 17, 2013, including all other zoning ordinance standards, for outdoor firing ranges is met or exceeded; and
3. If developed according to the recommended plan, the use will not materially endanger the public health or safety as it is designed and constructed to be consistent with the safety guidelines of the US Department of Energy’s Range Design Criteria as documented by a licensed professional engineer and included with the application and the range complex is in harmony with the area in which it is to be located.

SECOND: Commissioner Edge

DISCUSSION: Commissioner Evans stated the motion contradicts what citizens in that area want.

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

MOTION: Commissioner Keefe moved that in case number P13-45, the Board ratifies and confirms its action taken on October 21, 2013, to follow the recommendation of the Joint Planning Board to approve A1/CZ for outdoor firing range and agricultural uses with conditions and to specifically adopt and approve all of the Planning Board’s findings of reasonableness and consistency with the LUP and to impose the additional condition regarding hours of operation as consented to by the applicant.

SECOND: Commissioner Edge

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

7. Consideration of Recommendation from County Attorney to Define “Vocational School” in the Cumberland County Zoning Ordinance

BACKGROUND:

The judge in the second TigerSwan lawsuit ruled that the TigerSwan facility was a vocational school under the county ordinance. That decision has been appealed to the Court of Appeals, the ordinance has been amended to define outdoor firing range, and that definition clearly applies

to the TigerSwan facility; however; the plaintiffs in the third suit still argue that the facility is a vocational school. In order to minimize further litigation on this issue, the county attorney recommends that the Board requests the Planning Board to recommend a definition of vocational school in the zoning ordinance that makes it clear that the Board of Commissioners intended that an outdoor firing range be a separate and distinct use from a vocational school.

RECOMMENDATION/PROPOSED ACTION:

Consider whether to request the Planning Board to recommend a definition of vocational school in the zoning ordinance to make it clear that an outdoor firing range and a vocational school are intended to be separate and distinct uses.

MOTION: Commissioner King moved that a definition of vocational school in the zoning ordinance be made to make it clear that an outdoor firing range and a vocational school are intended to be separate and distinct uses.

SECOND: Chairman Council.

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

8. Nominations to Boards and Committees

A. Cape Fear Valley Hospital System Board of Trustees (2 Vacancies)

Commissioner Keefe nominated Earnest Curry.

Commissioner King nominated Wilson Lacy.

Commissioner Evans nominated Michael Williford.

9. Appointments to Boards and Committees

A. Minimum Housing Appeals Board (2 Vacancies)

Nominee(s): Eric F. Jones (Reappointment)
Veronica Langston (Reappointment)

There being an equal number of vacancies and nominees,

MOTION: Commissioner Edge moved to appoint by acclamation the nominees to the Minimum Housing Appeals Board.

SECOND: Chairman Council

VOTE: UNANIMOUS (7-0)

10. Closed Session: No closed session was held.

MOTION: Commissioner Edge moved to recess the Board of Commissioners meeting to the Cumberland County Detention Center located at 204 Gillespie Street at 10:20 a.m. for the dedication ceremony of the Detention Center expansion.

SECOND: Chairman Council

VOTE: UNANIMOUS (7-0)

The Board of Commissioners meeting reconvened at the Cumberland County Detention Center at 10:45 a.m.

Following dedication of the Cumberland County Detention Center expansion and there being no further business, the meeting adjourned at 11:45 a.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board