

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AND
CUMBERLAND COUNTY LEGISLATIVE DELEGATION
COURTHOUSE, 117 DICK STREET, ROOM 119, FAYETTEVILLE, NC
MARCH 11, 2016 – 8:00 AM
SPECIAL MEETING
MINUTES

PRESENT: Commissioner W. Marshall Faircloth, Chairman
Commissioner Glenn Adams, Vice Chairman
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Charles Evans (departed at 9:00 a.m.)
Commissioner Jimmy Keefe
Commissioner Larry Lancaster
Amy Cannon, County Manager
James Lawson, Deputy County Manager
Melissa Cardinali, Assistant County Manager
Tracy Jackson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Governmental Affairs Officer
Brenda Jackson, Social Services Director
Joe Utley, Tax Administrator
Kellie Beam, Deputy Clerk to the Board
Press

LEGISLATIVE MEMBERS

PRESENT: Representative Marvin W. Lucas, 42nd District
Representative Elmer Floyd, 43rd District (departed at 9:15 a.m.)
Representative Billy Richardson, 44th District (departed at 9:15 a.m.)
Representative John Szoka, 45th District
Senator Wesley Meredith, 19th District

LEGISLATIVE MEMBERS

ABSENT: Senator Ben Clark, 21st District

1. CALL TO ORDER

Chairman Faircloth called the meeting to order.

2. WELCOME

Chairman Faircloth welcomed everyone in attendance and turned the meeting over to Commissioner Edge who briefed legislators on the North Carolina Association of County Commissioners' (NCACC) legislative goals process and called attention to the three legislative priorities for the upcoming Short Session. Commissioner Edge stated the hope is that these continuing goals will receive some attention from legislators.

3. LEGISLATIVE GOALS AND ISSUES DISCUSSION

A. NCACC GOAL: Seek legislation to authorize local option revenue sources already given to any other jurisdiction.

Talking Points:

- Counties have the authority to enact sales taxes through five statutory Articles.
- Some of these sales taxes are earmarked for specific purposes such as the Article 43 ¼ cent for public transit (1/2 cent for six counties).
- Counties are in the best position to understand local needs and should have the flexibility to direct sales tax revenues to local programs such as education and economic development without strings attached.
- Counties are not requesting an increase in the overall statutory cap, just the flexibility to use funds to address local needs within the existing five Articles.

Requested Action:

Pass Senate Bill 605 (various changes to the revenue laws) as currently drafted or substantively similar legislation that gives counties flexibility to enact the appropriate mix of sales tax articles and use the revenues for general purposes.

Background and Goal Status:

Through five articles in statutes addressing county sales tax authority, 94 counties have the authority to raise up to 2.5 cents of sales tax while six have the authority to raise up to 2.75 cents. Some of the revenues from these Articles are earmarked for specific uses such as public transit funding. Only three counties have approved the Article 43 transit tax, while 29 counties have approved the Article 46 tax for general purposes. House Bill 518 (County Sales Tax Flexibility) was introduced during the long session to achieve the counties' tax and finance goal of providing local option revenue flexibility to all jurisdictions by resolution.

Commissioner Edge reviewed the NCACC GOAL, talking points, requested action and background and goal status recorded above. Commissioner Edge stated his understanding is that this is eligible for approval in the Short Session and legislators are being asked to give counties, who are in the best position to understand and respond to local needs, the flexibility to use local revenues to address local challenges.

- B. NCACC GOAL: Seek legislation to restore the statutory requirement that 40% of the net lottery proceeds be allocated to counties for school capital needs and increase the annual appropriation of lottery funds until the 40% allocation is restored.

Talking Points:

- When the N.C. Education Lottery was enacted, 40% of the annual net proceeds were directed to the Public School Building Capital Fund for county school construction needs. Since 2010, the General Assembly has set the county lottery appropriation below the statutory 40% of the net proceeds and has appropriated a flat \$100 million, which now represents about 20% of the expected net proceeds.
- Consequently, counties have lost more than half a billion dollars in school construction funds since the recession, and have been forced to delay construction projects, use their emergency fund balances to make up the debt service losses, or to reduce funding for other essential services.

Commissioner Edge reviewed the NCACC GOAL and talking points recorded above. Commissioner Edge stated Cumberland County loses \$5 million annually without the 40% of annual net lottery proceeds and legislators are being asked to restore the statutory requirement that 40% of the net lottery proceeds be allocated to counties for school capital needs. Commissioner Edge stated with the lottery appropriation below the statutory 40% of net proceeds, Cumberland County has run out of dollars. Commissioner Edge stated the Board of Education has expressed the need for an elementary school off Andrews Road and the Board of Commissioners needs to help with this public education goal if at all possible.

- C. NCACC GOAL: Oppose unfunded mandates and shifts of state responsibilities to counties.

Commissioner Edge reviewed the NCACC GOAL recorded above and stated although counties believe in taking their fair share of responsibilities, opening the number of polls that have to be opened for a county as large as Cumberland County is expensive.

Representative John Szoka, 45th District, offered the following points:

- the second primary election was highly debated; majority of the legislators felt strongly about not having two primaries;

- Senate Bill 605 Various Changes to the Revenue Laws, a major tax bill coming out of the Senate, contained provisions that were passed during the budget; the specific bill will not get passed and everything that is going to get passed was passed last budget;
- House Bill 518 County Sales Tax Flexibility, a bipartisan bill, is still sitting in the House; uncertain as to where the bill will go;
- need to have the NCACC emphasize its goals a number of times with legislators;
- there is desire within the House to return to the allocation of 40% but tough decisions will have to be made in order to take out other programs

Commissioner Keefe offered comments about the financial impact of primaries and runoff elections to counties. Commissioner Adams spoke to the expense to counties to change out all the voting machines for the next voting cycle. Representative Lucas stated he would see whether all of the U. S. Election Association Commission's (EAC) Help America Vote Act (HAVA) funding has been exhausted.

Representative Szoka stated when there is discussion about elections at the state level, there is tremendous push back from many quarters. Representative Szoka stated it would aid legislative discussions if all 100 counties would indicate their support for one-stop primaries by resolution. Commissioner Edge stated he would take Representative Szoka's suggestion to the NCACC for consideration. Representative Floyd stated he plans to introduce legislation during the Long Session to repeal second primaries.

Commissioner Adams asked legislators to look at the impact of redistricting if they want to have a voice in Washington to avoid Cumberland County being split among multiple congressional districts resulting in some citizens not knowing who represented them. Representative Szoka stated redistricting has been strongly addressed and will continue to be, but it oftentimes gets boxed in by the rules.

D. CUMBERLAND COUNTY CONCERN: Impact of Builders' Inventory Legislation

BACKGROUND:

The NC General Assembly has approved exempting from property tax the increase in value of real property held for sale by a builder; to the extent the increase is attributable to subdivision or improvements by the builder.

The term builder is defined to mean "A taxpayer engaged in the business of buying real property, making improvements to it, and reselling it.

For both residential and commercial properties, the new exclusion applies to improvements made on or after July 1, 2015 and is effective for the 2016 tax year.

Completed applications must be filed with Cumberland County Tax Administration during the regular listing period ending January 31 of each year. Late applications can be accepted up to the close of the calendar year, but only for "good cause."

Residential Property

The statute excludes from taxation the increase in property value attributable to:

- Construction of a new single family home or duplex
- Subdivision of a parcel for future residential construction
- Non-Structural improvements (grading, streets, utilities, etc.) for future residential construction

To be eligible, the property must continue to be owned by a builder, be held for sale, must not be occupied by a tenant, and must not be used as a model home or for any other commercial purposes. Because the exclusion is aimed at new construction, renovations to an existing residence cannot qualify. The exclusion is limited to three years from the date the property was first listed by the builder.

Commercial Property

Unlike residential property, commercial property may benefit from the new exclusion for a maximum of five years rather than three. The commercial property exclusion covers

only the increase in value attributable to subdivision or non-structural improvements (grading, streets, and utilities). Any improvement that requires issuance of a building permit terminates eligibility for the exclusion.

As of February 29, 2016, it appears that the impact on Cumberland County for the 2016 tax year will be approximately \$102,108. Since this is the first year of the Builder's Inventory program we don't have a clear history to know what the full impact will be in future years.

Applications Approved: 117

County	Rate	Value Excluded	Revenue Loss
Cumberland County	(0.74)	\$12,633,868	\$ 93,491
Fire District	(0.10)	\$5,302,982	\$ 5,303
Special Fire District	(0.0125)	\$5,302,982	\$ 663
Recreation Tax	(.05)	\$5,302,982	\$ 2,651
Total			\$ 102,108

RECOMMENDATION/PROPOSED ACTION:

This presentation was provided for information purposes only. No action is required.

Joe Utley, Tax Administrator, reviewed the background information recorded above. Representative Szoka stated he did not believe the impact of the Builders Inventory legislative was lost revenue. Representative Szoka stated the raw land is taxed and until the house is sold, no one is living in it. Representative Szoka stated the intent of the bill was to save or increase 5,000 jobs and give builders a "shot in the arm". Representative Szoka stated that from his perspective, no revenue was lost because the improvements had not been assessed and no taxes had been generated by the improvements. Representative Richardson concurred with Representative Szoka but stated he could see both sides. Commissioner Edge stated should the building catch on fire, the builder expects the fire department to respond and if there is vandalism, the builder expects the Sheriff's Office to respond, both of which cost money. Representative Szoka stated this is the first year of the bill and like any other law, rough edges can possibly be smoothed out.

E. CUMBERLAND COUNTY CONCERN: Factors Impacting Administration of Economic Services Programs

NC FAST BACKGROUND:

Medicaid cases increased 35 percent and Food & Nutrition cases 75 percent between July 2008 and June 2015 statewide. Departments of Social Services are facing many challenges as they try to meet federal timeliness and quality standards in these areas. Cumberland County has hired additional staff and approved overtime in an effort to improve its rates.

Challenges include: the implementation of the Affordable Care Act; USDA deadline for timeliness and quality for Food & Nutrition; and the functionality of NC FAST.

REQUESTED ACTION:

Improve the functionality and reliability of NC FAST.

ABLE-BODIED ADULTS WITHOUT DEPENDENTS WORK REQUIREMENT BACKGROUND:

North Carolina passed legislation (HB318) prohibiting time limit waivers for food and nutrition benefits for Able-Bodied Adults with Dependents (ABAWDs) required to meet work requirements in order to receive those benefits. The statewide waiver in place since 2008 ended in January for 23 counties implementing ABAWD requirements. The remaining 77 counties will implement the work requirements effective July 1, 2016.

In Cumberland County, about 1,300 adults would be affected. This will have an impact on the County's homeless population whose only financial assistance is FSS.

NC DHHS is strongly encouraging counties to implement Employment and Training programs to support the FNS recipients in finding work and meeting the time-limit requirements.

REQUESTED ACTION:

Provide resources to support employment and training programs to assist recipients in finding work.

Commissioner Adams spoke to issues Cumberland County Social Services has encountered as they try to meet federal timeliness and quality standards to include the need for the State to improve the functionality and reliability of NC FAST. Commissioner Adams stated the lack of flexibility with the State's shutting down computers everyday at 5:00 p.m. makes it difficult for counties to be in compliance. Brenda Jackson, Social Services Director, stated 13 full-time and 45 time-limited positions have been filled in an effort meet the challenges and improve the County's rate. Commissioner Adams stated these positions and some of the computer needs have been a direct cost to the County.

Ms. Jackson stated this is not just a technology problem but a multi-faceted problem because there are more individuals accessing and receiving services which has resulted in a workload problem. Ms. Jackson stated Social Services is federally mandated, State supervised and County administered which means Social Services administers the public assistance programs on behalf of North Carolina for the federal government. Ms. Jackson stated funds are reimbursed at 75% federal and 25% county. Ms. Jackson stated the unfunded mandate is that there are no state dollars tied to the administration of these programs. Ms. Jackson spoke to the challenges resulting from the disconnection between current Medicaid regulations and the new ACA regulations. Ms. Jackson also provided examples of how Social Services' measurement of performance is disconnected from the policies that came out of the ACA.

Challenges:

Medicaid

- 35% increase since 2008 Economic Recession
- Federal CMS Warnings for Timeliness & Quality
- Federally Required Implementation of Affordable Care Act (ACA)
 - Annual Open Enrollment
 - New Modified Adjustable Gross Income (MAGI) Requirements
 - Mandated 1095 Tax Forms
 - Longer recertification process (ex parte)

Ms. Jackson stated in addition to the increase in food stamps due to the downturn in the economy, there is also an issue with the FNS program as it relates to increased accessibility. Ms. Jackson explained how the ACA brought a new mandate termed No Wrong Door which opened up electronic application submissions 24/7. Ms. Jackson stated this resulted in increased applications for services from about 30% of the population who previously would not come into Social Services office but could now apply from their homes. Ms. Jackson stated there is also strong concern that tax preparers may generate applications for food stamps. Ms. Jackson stated the electronic submission of incomplete applications places an increased burden on the County to verify information in order to determine eligibility within federal timeline regulations.

In response to a question posed by Representative Szoka, Ms. Jackson stated the state is not putting anything on top of federal regulations to make the processing harder; however, the state bares no burden for the federal penalty that impacts the County.

Food & Nutrition Services (FNS) (Food Stamps)

- 75% increase since 2008 Economic Recession
- USDA Warnings for Timeliness & Quality

- \$80 million statewide (\$2 million for Cumberland County)
- Applications Generated by Tax Preparation Companies ex. Intuit Turbo Tax
- Federally Required No Wrong Door
- Electronic Application Submission
 - Incomplete applications
 - Burden on county to verify information

Ms. Jackson stated in addition to the lack of state dollars and challenges with additional requirements, there is the inflexibility of the NC FAST system and major problems associated with its not functioning properly.

North Carolina Families Accessing Services through Technology (NC FAST)

- More comprehensive rule-based system
- Requires more data to be collected
- System roll-out & defects creating additional work
- Impact of further program roll outs; for example, child care, energy assistance, child protective services and adult services

Ms. Jackson asked legislators to help with the federal regulations by working with the state's federal partners and to help support the state's Information Technology in order to improve the functionality, reliability and flexibility of the NC FAST system.

Representative Lucan stated these problems are exacerbated because Cumberland is the poorest urban county in the State with unique problems that need to be addressed at the state level. Commissioner Keefe stated a lot of the County's lack of compliance is based on unrealistic expectations at the state and federal level. Representation Szoka stated in order to take any action, legislators need written specifics. Senator Meredith stated these specifics could then be put into a bill. Representative Szoka stated legislators need this to come from the Board of Commissioners and not Social Services.

Ms. Cannon stated the challenges outlined below will have a significant impact on about 1,300 of the County's residents who have been relying on FNS. Ms. Jackson stated the state applied for a federal waiver of the ABAWD program and the County qualified an exemption from the program; however, the General Assembly approved HB318 Protect North Carolina Workers Act which prohibited North Carolina from applying for a waiver. Ms. Jackson stated this means about 5,000 County residents have been identified as being Able-Bodied Adults (ABA) with 1,300 of them not involved in any program which means as of July 1, the maximum amount they can receive is six months after which they will not be eligible for any benefits. Ms. Jackson stated the only way to counter this is to provide resources to implement employment and training programs. Ms. Jackson stated the responsibility for this assistance lies at the local level which makes it a local burden.

Challenges:

ABAWD is an unfunded state mandate (HB318)

- State required implementation of Able Bodied Adults Without Dependents (ABAWD) Program
 - 3-6 months benefit limit
 - Employment & Training Program
- Approximately 1,303 potential cases
- Impact on homeless population whose only financial assistance is FNS-Food Stamps
- Resources needed to support an Employment & Training Program; for example, bus passes, work-related expenses

Request:

- Provide resources to support employment and training programs

Representative Szoka stated there were a lot of issues with the bill but he does not recall this particular issue being debated in the bill. Senator Meredith stated his understanding during discussion of the bill was that these ABA's could volunteer for twenty hours of job experience. Ms. Jackson stated there are still bus passes, appropriate clothes and

other work-related expenses tied to the volunteer work and these are unfunded. Representative Szoka stated the focus of the bill was on undocumented immigrants rather than citizens of North Carolina so it may need to be tweaked. Senator Meredith asked that concrete recommendations be submitted so members of the delegation can help with these issues.

F. OTHER TOPICS

Commissioner Keefe referenced SB143 Revised Laws/Cumberland County as proposed in 2015 to modify the uses of Cumberland County's room occupancy tax and asked whether the posture of legislators was still to follow House rules. Representative Szoka stated the bill as proposed did pass the Senate but the bill as passed by the Senate will not pass the House. Representative Szoka stated as chair of the House Finance Committee, he believes he should treat every county equally unless the House Finance rules change. Commissioner Keefe asked if the bill would pass if it was in accordance with House rules. Representative Szoka stated if this is accompanied by a resolution from the Board of Commissioners, he is obliged to support the County Commissioners and the bill. Representative Lucas stated if it comes to the House as it left the Senate, it will be dead on arrival.

Commissioner Adams asked legislators to take up the cause of removing 16 and 17 year-olds from adult court, putting them in juvenile court and providing funds for programs.

Representative Szoka spoke to his interest in renewable energy and stated he would be like to know how many solar farms are in Cumberland County and the amount of increased tax revenue they have brought into the County.

Chairman Faircloth thanked everyone for attending.

4. ADJOURN

There being no further business, the meeting adjourned at 9:33 a.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board