

Members:
Horace Humphrey, Chairman
Vickie Mullins, Vice-Chair
Ed Donaldson
Joseph M. Dykes
George Lott



Alternates:
Yvette Carson
Winton McHenry
Nathan Feinberg
Joseph Decosta
Alfonso Ferguson Sr.

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville North Carolina 28301
(910) 678-7602

MINUTES
JULY 16, 2015
7:00 P.M.

Members Present

Horace Humphrey
Vickie Mullins
George Lott
Joseph Dykes

Absent Members

Ed Donaldson

Staff/Others Present

Patricia Speicher
Katlyn Allen
Scott Walters (Code Enforcement)
Robert Hasty, Jr. (Assistant
County Attorney)

Chair Humphrey called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. ROLL CALL

Ms. Speicher called the roll and explained that there was a quorum. Because only four board members were present, the petitioners were given the option to continue or defer until the August 20, 2015 Board of Adjustment. The petitioners opted to defer.

Mrs. Mullins made a motion to defer Case No. P15-04-C to August 20, 2015, seconded by Mr. Lott. The motion passed unanimously.

	IN FAVOR	OPPOSED
HUMPHREY	YES	NONE
MULLINS	YES	
DYKES	YES	
LOTT	YES	

2. SWEAR IN STAFF

Ms. Speicher noted that there was no need to swear in staff.

3. ADJUSTMENTS TO THE AGENDA

4. APPROVAL OF THE MAY 21, 2015 MINUTES

Mrs. Mullins made a motion to approve the minutes as submitted, seconded by Mr. Lott. The motion passed unanimously.

	IN FAVOR	OPPOSED
HUMPHREY	YES	NONE
MULLINS	YES	
DYKES	YES	
LOTT	YES	

5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

Public hearing for case P15-04-C is deferred to the August 20, 2015 Board of Adjustment.

7. POLICY STATEMENT REGARDING APPEAL PROCESS

8. PUBLIC HEARING(S)

A. P15-04-C: CONSIDERATION OF AN APPEAL FROM THE CODE ENFORCEMENT OFFICER'S DECISION REGARDING THE ILLEGAL OPERATION OF AN OUTDOOR FIRING RANGE IN A RR RURAL RESIDENTIAL DISTRICT ON 72.97+/- ACRES, LOCATED AT 400 KAREN STREET, SUBMITTED AND OWNED BY DAVID AND MARY DERETTE HAMPTON.

MS. SPEICHER: We have a quorum, sir, but the board's policy has been to allow the petitioner for a case to decide whether they want to move forward tonight or defer to another meeting since we are lacking one regular voting member this evening.

CHAIR HUMPHREY: Okay, we can put that proposal to the applicants now at this time.

MS. SPEICHER: Yes, sir.

CHAIR HUMPHREY: Okay. Applicants, where's the applicants? Would you please stand? Attorney and applicants? Did you hear what she said? Are you the attorney?

MR. YARBOROUGH: Yes.

CHAIR HUMPHREY: Did you understand what she said?

MR. YARBOROUGH: Yes, sir.

CHAIR HUMPHREY: Do you want to confer with your clients?

MR. YARBOROUGH: Yes.

Mr. Yarborough and petitioners stepped outside to discuss the matter.

MS. SPEICHER: If I could, Chair, while they're doing that...

CHAIR HUMPHREY: Yes?

MS. SPEICHER: I would like to introduce you to some new staff members.

CHAIR HUMPHREY: That would be permissible, please go ahead.

MS. SPEICHER: This is Mr. Scott Walters, the Code Enforcement Manager that replaced Ken Sykes. You've met Katlyn.

CHAIR HUMPHREY: Katlyn, yes, I've met Katlyn.

MS. SPEICHER: Then we have Jaimie Rachal, who will soon, upon training, will be the secretary to the board.

CHAIR HUMPHREY: Oh, okay. Good to know her.

MS. SPEICHER: And George Hatcher. I'm not sure if you've met or not.

CHAIR HUMPHREY: I've met Mr. Hatcher, yes. Thank you. Welcome aboard! We're glad to have all of you! Help us out.

MS. SPEICHER: And you do know Rick Moorefield, County Attorney?

CHAIR HUMPHREY: Yes, yes. Now, for those of you in attendance, the attorney is discussing something with his clients and we're waiting on them to come back. Then we'll see if we're going to go forward with this or not. Uh, because we don't have five people present and it'd have to be unanimous for anything the board says. So they can decide whether they want to go forward or whether to postpone. Thank you for your patience.

Mr. Yarborough and petitioners return from their discussion.

MR. YARBOROUGH: Mr. Chairman, members of the board, we will defer until a later time.

MS. SPEICHER: Thank you. If we could, on adjustments to the agenda..

CHAIR HUMPHREY: Yes ma'am.

MS. SPEICHER: There's no need to swear in staff. Move to adjustments to the agenda and defer item number 8, P15-04-C to the August 20th Board of Adjustment.

CHAIR HUMPHREY: Okay, this is for the record. She's writing this down. Wait until she gets it. Okay.

MS. SPEICHER: If we could have a motion on that?

CHAIR HUMPHREY: Okay. Do all four board members understand what's going on here?

MRS. MULLINS: Yes.

MR. DYKES: Yes.

MR. LOTT: Yes.

CHAIR HUMPHREY: Okay, we need a motion to...

MRS. MULLINS: I make a motion to, umm, go with what the attorneys say about it being deferred until August the 20th, for the next Board of Adjustment meeting.

CHAIR HUMPHREY: Second?

MR. DYKES: Second.

CHAIR HUMPHREY: Alright, we will defer this to the next Board of Adjustment meeting in August. I don't know the date, but...

MRS. MULLINS: The 20th.

CHAIR HUMPHREY: Is it the 18th? 20th? August 20th.

CHAIR HUMPHREY: Now, therefore, since it's unanimous, I guess we can say goodbye to you people. Uhh, unless you want to stay and see what we have to do—you're welcome to do so. Um, yes? You, in the audience. Question?

ROBIN KIVETT: Does this mean they are to suspend their shooting until next month?

CHAIR HUMPHREY: Would you come up please ma'am? Just for the record, would you give your name and address so she can have it written down here? Just for the record.

Mrs. Kivett gives her name and address: 4042 Pleasantview Drive, Fayetteville, NC.

MS. KIVETT: We live adjacent to the property. So, for the next month, does this mean this suspends their shooting for the next month?

CHAIR HUMPHREY: Right now, the status quo would be as it is of today, I'm assuming. Isn't that correct, Patti?

MS. SPEICHER: That's correct.

CHAIR HUMPHREY: The status quo would be as it is today. We wouldn't be able to do anything to it until the next meeting. Yes, sir?

MS. KIVETT: Well, because we hear gunshots now.

CHAIR HUMPHREY: Unfortunately, while I wish there was something we could do about it tonight, but we just don't have another member. It's their right to do as they've done.

MRS. MULLINS: We've got two that want to speak.

CHAIR HUMPHREY: Okay, name and address, please. Name and address for the record?

KEN NETTLES: My name is Ken Nettles. I reside with my wife at 3920 Pleasant View Drive. We came here tonight to hear the case. I would like the record to show that we were not asked our opinion, and Mr. Yarborough apparently controls the agenda. We'd like you all to know that we object to that and have it stated in the record.

CHAIR HUMPHREY: Okay. Thank you, sir.

MR. NETTLES: It is my understanding that order to desist was served to the petitioners, and they're continuing the fire all the time. They are defying that order.

MS. SPEICHER: It is not proper for this board to take any kind of evidence when they're not hearing the case.

CHAIR HUMPHREY: Okay. We cannot take any action tonight, but you can work with your Code Enforcement Officers and see what you can work out, but the board cannot act.

MR. NETTLES: Well, I appreciate that, but I think that the people that showed should be able to speak because the twentieth may not be convenient for some of the people here in opposition.

MS. SPEICHER: If I ...

MR. NETTLES: There's two sides here and equal treatment is entitled.

CHAIR HUMPHREY: Hold on, sir. She's trying to say something. Thank you very kindly.

MS. SPEICHER: If I could, I'd like to reiterate that this board's long standing policy, since I've worked for the county 23 years, has been, if there are not five members present, then it is up to the petitioner or the applicant whether they wish to move forward that night or not. The staff did have five members—five regular members—confirm. We also had one alternate confirm. The one regular member called today to say he could not make it. We haven't heard why the alternate didn't show up.

CHAIR HUMPHREY: Thank you. Yes, ma'am? If you're going to speak, please come forward and give your name and address please and speak clearly.

LETHA RAY: My name is Letha Ray. I live at 731 Bladen Circle, Fayetteville, North Carolina. I'm, um, opposed to this shooting range. Um, last week a bullet come right past...

CHAIR HUMPHREY: Ma'am, we cannot... you'll have to do what you're doing at the next meeting. This is not official and we cannot...

MS. RAY: That'd be fine.

CHAIR HUMPHREY: Okay. Thank you very kindly.

MR. HASTY: We need to stick with the agenda items at this point.

CHAIR HUMPHREY: Right, right. The only thing we can do here now for the people that are assembled so you may know, we're just going to do our little board meeting where we approve our last minutes and things like that. This case will not be discussed by the board members or anything until August. There will be no action taken by this board on this case tonight. Okay, so you're free to leave or you can stay and watch us do our little bit of business which will take about ten minutes. Thank you for your presence, thank you.

(Inaudible)

MS. RAY: Will they be sending out letters again?

MS. SPEICHER: No we will not, unless there's a change. When it's stated at the public hearing the specific date, which is August 20th, we do not remain.

CHAIR HUMPHREY: Okay. The next meeting will be August 20th at 7 o'clock.

MS. SPEICHER: Same place.

CHAIR HUMPHREY: Same place, same time. August 20th. Thank you for your attendance. I'm going to get fired the first time! First board, fired!

MRS. MULLINS: You did good, you did good.

CHAIR HUMPHREY: Okay, alright. Let's move on. Moving on to the other issues here. Swear in staff.. Uhh, do we still have to do that Patti?

MS. SPEICHER: No.

CHAIR HUMPHREY: Okay, we don't need to swear in staff. Adjustments to the agenda, we just did that. Approval of the minutes, we do need to do that. You got them in the mail, most of you? All the board members got it either in the mail or by email? I need a motion to accept those minutes.

Mrs. Mullins made a motion to approve the minutes as submitted, seconded by Mr. Lott. The motion passed unanimously.

	IN FAVOR	OPPOSED
HUMPHREY	YES	NONE
MULLINS	YES	
DYKES	YES	
LOTT	YES	

MR. LOTT: Can I ask a question to the staff?

MS. SPEICHER: Yes, sir.

MR. LOTT: I want to make sure I understand what we were doing here tonight. That they have been—I know we're not going to discuss the case, but I want to make sure I understand it. There was a violation against these people, or placed against these people. Are we here tonight to rectify the violation? Or are we set up to approve the firing range?

MS. SPEICHER: You are not here for a special use permit.

MR. LOTT: Okay.

MS. SPEICHER: Code Enforcement cited the property owner in violation and he states he is not for the reasons that are in your packet.

MR. LOTT: Okay.

MR. MOOREFIELD: Your options are to either uphold the code enforcement officer's decision or reverse it or modify it. That's what your function is.

MR. LOTT: Okay.

CHAIR HUMPHREY: Any other questions since we have the attorneys present? Do you have a question, Mr. Dykes, about this case? That you'd like to take advantage of while they're here? Mrs. Mullins?

MR. DYKES: No.

MRS. MULLINS: No, not with people in the room.

CHAIR HUMPHREY: Oh, yes. There are still people in here.

MRS. MULLINS: I'd rather not speak while there are others present. That wouldn't be fair.

CHAIR HUMPHREY: Alright. You may direct your question now please.

MRS. MULLINS: Okay, so.. I just want to make sure. So, the violation that was given to them to cease and desist, which I've seen that. That is the only thing that we either back or we don't back, right? I'm just making sure.

Chair Humphrey nods in agreement.

CHAIR HUMPHREY: Are there any other questions? All okay?

MR. LOTT: They didn't apply for a permit, did they?

CHAIR HUMPHREY: No, they've never applied for a permit.

MS. SPEICHER: We probably should quit talking about it, just to save us all.

MR. MOOREFIELD: You were just trying to understand the case. There's nothing wrong with that.

MRS. MULLINS: Okay.

CHAIR HUMPHREY: Okay, abstentions by board members, I guess we can skip over that since we're not going to hear it tonight, so... Uhh, while we're here, and before we move forward I want to clarify, are we going to give Judge Donaldson a plaque or something like we did the last time?

MS. SPEICHER: Yes, sir. If we can get him here. We'll do our best to get him here, but yes sir.

CHAIR HUMPHREY: Oh, okay.

MRS. MULLINS: Yes, because he moved to Winston-Salem, correct?

MS. SPEICHER: He is moving, yes.

MRS. MULLINS: Okay. That's what he'd said at the last meeting.

CHAIR HUMPHREY: So in regards to that, we don't need to do anything?

MS. SPEICHER: No, we've got it.

CHAIR HUMPHREY: Okay. See there! Thank you!

MS. SPEICHER: One thing that our director, Tom Lloyd brought up today was that maybe the board members would like it better if it were at the Commissioner's meeting? And the Commissioners give the plaque? Do you think that would be better, or should we do it here?

CHAIR HUMPHREY: I like that idea! Let's see if we can get the board to agree! Let's see what the board thinks.

MRS. MULLINS: I like the idea!

MR. DYKES: I like the idea.

MS. SPEICHER: That we have it presented by the Commissioners?

MRS. MULLINS: Yes, that they present it at the Commissioners meeting.

MS. SPEICHER: Okay, so from now on, we will shift it over to the Board of Commissioners. That doesn't mean that this staff—the whole staff—doesn't appreciate what you do. Every one of you all.

CHAIR HUMPHREY: So we will let the record show that.

MS. SPEICHER: And we will make certain adjustments to the agenda.

CHAIR HUMPHREY: Board members voted unanimous.

MS. SPEICHER: Great.

CHAIR HUMPHREY: Public hearing deferrals? We don't need to do that?

MS. SPEICHER: We already did it. We're done.

CHAIR HUMPHREY: If there's nothing further from this board, until August 20th...

MS. SPEICHER: And we do have, not just this case, we have one additional case on the 20th.

CHAIR HUMPHREY: On the 20th. Okay. Anything further? Alright, well I guess I can hit the gavel... I like hitting the gavel.

(Laughs)

9. DISCUSSION

There was none.

10. UPDATE(S)

There was none.

11. ADJOURNMENT

Mr. Lott made a motion to adjourn at 7:14 p.m., seconded by Mrs. Mullins. The motion passed unanimously.

	IN FAVOR	OPPOSED
HUMPHREY	YES	NONE
MULLINS	YES	
DYKES	YES	
LOTT	YES	