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# CUMBERLAND ★ COUNTY ★ NORTH CAROLINA

## BOARD OF COMMISSIONERS

CANDICE WHITE  
Clerk to the Board

KELLIE BEAM  
Deputy Clerk

### MEMORANDUM

TO: Facilities Committee Members (Commissioners Keefe, Edge and King)

FROM: Kellie Beam, Deputy Clerk to the Board *KB*

DATE: August 31, 2012

SUBJECT: Facilities Committee Meeting – Thursday, September 6, 2012

**There will be a regular meeting of the Facilities Committee on Thursday, September 6, 2012 at 8:30 AM in Room 564 of the Cumberland County Courthouse.**

### AGENDA

1. Approval of Minutes – June 7, 2012 Meeting **(Pg. 2)**
  2. Consideration of Requests from Arts Council to use the Historic Courthouse for Events **(Pg. 10)**
  3. Update on the Lease for the J.P. Riddle Stadium **(No Materials)**
  4. Update on Status of E. Newton Smith Building **(No Materials)**
  5. Consideration of Request to Lease Both Floors of the Robeson S & L Building to the FACVB **(Pg. 11)**
  6. Other Items of Business
- cc: Board of Commissioners  
Administration  
Legal  
Communications Manager  
County Department Head(s)  
Sunshine List

CUMBERLAND COUNTY FACILITIES COMMITTEE  
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
JUNE 7, 2012 - 8:30 A.M.  
MINUTES

MEMBERS PRESENT: Commissioner Jimmy Keefe, Chair  
Commissioner Kenneth Edge

MEMBERS ABSENT: Commissioner Billy King

OTHERS PRESENT: James Martin, County Manager  
Amy Cannon, Deputy County Manager  
James Lawson, Assistant County Manager  
Sally Shutt, Communications and Strategic Initiatives  
Manager  
Rick Moorefield, County Attorney  
Jeffery Brown, Engineering and Infrastructure Director  
Al Brunson, Facilities Maintenance Manager  
Sam Lucas, Engineering Technician  
Chuck James, Johnson Controls, Inc.  
Robert Ferris, SFL&A Architects  
Eric Lindstrom, SFL&A Architects  
Wilson Lacy, PWC Commissioner  
Brian Herndon, Attorney  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Commissioner Jimmy Keefe called the meeting to order.

1. APPROVAL OF MINUTES – APRIL 5, 2012 MEETING

MOTION: Commissioner Edge moved to approve the minutes.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (2-0)

2. REPORT ON JCI GUARANTEED ENERGY SAVINGS PROJECT

Chuck James, Johnson Controls, Inc. (JCI), reported the annual avoidance for the sixth year performance was \$788,342. Mr. James compared energy and dollar savings for years five and six, and stated the total project target or guarantee over twelve years remains at \$6.2 million.

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Mr. James reported electrical and gas energy avoidance savings for year six equated to 8,146 tons of greenhouse emissions and noted the county's energy efficiency efforts resulted in a reduction of pollutants such as mercury, sulfur dioxide, and nitrogen oxides. Mr. James further reported to date, JCI has reduced Cumberland County's emissions by 38,000 tons. Mr. James stated by reducing emissions, the environment in Cumberland County has become a cleaner, more comfortable place.

Mr. James stated during year seven JCI will continue to verify the building automated system is working correctly to increase the integrity and reliability of system performance and energy savings. Mr. James stated JCI will also continue to conduct a proactive design review and analysis of upcoming projects based upon operation and energy management savings.

### 3. UPDATE ON BOARD OF ELECTIONS BUILDING

James Lawson, Assistant County Manager, stated at the February 2, 2012 Policy Committee meeting there was a discussion regarding the future use of the building located at 301 E. Russell Street which currently houses the county Board of Elections. Mr. Lawson stated the Board of Elections will be relocating to the E. Newton Smith Center after the runoff election is complete in July 2012. Mr. Lawson stated there are several options available regarding the use of the building to include housing county departments that have outgrown their space or putting the property on the market to sell.

Mr. Lawson explained challenges the Veterans Services office is facing at their current location to include the lack of privacy, inconveniences associated with parking, and accessibility for disabled veterans. Mr. Lawson further explained the county Human Resources office has outgrown its space and has temporarily relocated training staff to vacant offices in the Probation and Parole Departments until other provisions can be made.

Mr. Lawson stated he sought input from Tom Keith, an experienced local commercial real estate appraiser, regarding the marketability of the building. Mr. Lawson stated he also requested that County Tax Administration staff conduct an analysis of the commercial property sales in and around the downtown area. Mr. Lawson shared the following key points from the information gathered:

- The building is a brick structure, in excellent condition, with a fairly new roof that was installed in 2009.
- In general, the building is in a desirable location, on a highly visible corner lot, in close proximity to the County Courthouse, a building heavily utilized by the public.
- The physical layout of the building has an open area, along with individual office spaces and ample storage areas, providing flexibility for up-fitting and adaptive re-use.

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- Because of the proximity to the Courthouse, the building would probably generate its greatest interest from the legal community, and likely more interest in purchasing versus leasing.
- At approximately 4,860 square feet, the available office space is sufficient to comfortably house a legal practice, as well as many other commercial office operations.
- In Mr. Keith's opinion, the demand from the legal community for downtown property has declined to some extent, since a great deal of research can now be conducted online versus having to come to the Courthouse, as was the typical practice up until approximately 10 to 15 years ago with the rise of the internet.
- Based on sales data provided by the tax office, there are a few buildings/spaces that sold in or near the downtown area. Properties located on Hay Street, Maxwell Street, Robeson Street, and Donaldson Street sold at an average of \$125.502 per square foot.
- There is an office building located at 308 Person Street built in 1915 that is currently listed for sale at \$649,000. At 5,714 total square feet, the cost per square foot is \$113.58. According to tax records, it last sold in April 2006 for \$520,000. The current tax value assessed from the last revaluation is \$576,147.
- The current tax value for the County's building at 301 E. Russell Street is \$476,450.
- A key factor to consider is the value of the proceeds that could be potentially generated from the sale of this building as compared to the value of retaining the building for needed County office space, especially with challenges by shortages in available facilities. Further, consideration should be given to costs we could incur for up-fitting/renovating or procuring other available space (such as the E. Newton Smith Center) to house County operations in need of space.

Mr. Lawson stated staff is seeking direction on whether the building should be placed on the market for sale or retained for internal county office space needs.

Commissioner Edge asked if the Board of Elections building is the only alternative for internal office space. Mr. Lawson stated there is one space remaining on the bottom level of the E. Newton Smith Center and it will be more ideal for county Human Resources. Mr. Lawson stated the Board of Elections building would be more ideal for Veterans Services because of the individual office spaces and available space for files. Commissioner Edge stated at this time, he feels the value of retaining the Board of Elections building for needed county office space trumps the value of selling the building.

Commissioner Keefe stated he feels the location of the Board of Elections building is very attractive and he would like to see staff look into a perfectly designed building for Veterans Services and Human Resources in a location that is not beside the Courthouse. Mr. Lawson stated Veterans Services feels the Board of Elections building is an ideal set-up for what they need. Commissioner Keefe stated if the Board of Elections building was placed on the market, funds from the sell could be used to build a first class office building in another area designed for disabled veterans and county Human Resources.

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There being a lack of consensus for either of the options as recommended for the Board of Elections building, the following motion was made.

MOTION: Commissioner Edge moved to send both options to the full Board for consideration.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (2-0)

## 4. UPDATE ON STATUS OF E. NEWTON SMITH CENTER

Jeffery Brown, Engineering and Infrastructure Director, stated the E. Newton Smith Center is currently being renovated to relocate various county departments in an effort to adaptively reuse existing facilities. Mr. Brown stated the first floor of the E. Newton Smith Center will house the county pharmacy and Board of Elections while a portion of the second floor will house the new county Wellness Program and Employee Express Care Clinic.

Mr. Brown reported that the following items have been completed to date:

- HVAC upgrades have been completed with the exception of cleaning and sealing some existing duct lines.
- All areas have been equipped with computer and phone drops.
- Painting is complete.
- Carpet and vinyl tile have been installed.
- Pharmacy shelving is complete.

Mr. Brown reported that the following items remain to be completed to date:

- Install new ceiling tiles.
- Final inspections from the City of Fayetteville.
- Interior signing of building.
- Security installation and updates.
- Changing out the existing locks.
- Thorough cleaning of the building.

Mr. Brown stated all renovations will be completed in order for the Board of Elections, county pharmacy, and employee clinic to be operational in their allotted space by July 1, 2012, although the Board of Elections will not relocate until after the runoff election on July 17, 2012.

## 5. UPDATE ON STATUS OF DETENTION CENTER EXPANSION PROJECT

Mr. Brown stated at the April 5, 2012, Facilities Committee meeting it was reported that subcontractor bids were to be received in May 2012, and the Guaranteed Maximum Price

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(GMP) would be developed and presented to the Board of Commissioners in early June 2012 for approval. Mr. Brown further stated unfortunately this was not able to occur due to not having received final approval from all the regulatory agencies involved in reviewing and approving the construction drawings.

Mr. Brown stated the county received comments back from the Department of Health and Human Services on May 1, 2012, and Mosley Architects submitted their response on May 15, 2012. Mr. Brown further stated the county has also received comments from the Department of Insurance and their comments have been addressed by Mosley Architects. Mr. Brown stated Mosley Architects submitted revisions to the City of Fayetteville on May 25, 2012, and Mr. Brown communicated directly with the City of Fayetteville expressing the urgency in getting these plans reviewed and approved as soon as possible.

Mr. Brown stated a weekly conference call with the construction manager and Mosley Architects has been occurring for the past three weeks to discuss issues as they arise to ensure they are handled in a timely manner. Mr. Brown stated the weekly conference calls will continue until no longer needed.

Mr. Brown reported the final construction drawings are anticipated to be completed within the next two weeks which will allow the project to be advertised for bids. Mr. Brown stated the construction manager will then develop the GMP which will be presented to the Board of Commissioners on August 6, 2012 for approval.

## 6. CONSIDERATION OF APPROVAL OF MAINTENANCE OF COUNTY PARKING LOTS

Mr. Brown stated some of the county's parking lots are in immediate need of repairs. Mr. Brown stated the county needs to establish a preventative maintenance program to address parking lots at county facilities similar to what was completed for roofs in previous years.

Mr. Brown stated the first step that has to be taken is to complete a comprehensive inventory to include an overall condition rating of all parking lots the county is responsible for maintaining. Mr. Brown further stated once the inventory has been completed, a plan can be developed which prioritizes all parking lots based on the overall condition rating. Mr. Brown explained the condition rating would take into account the amount of potholes, block cracking, alligator cracking, striping appearance and other things. Mr. Brown stated once this information is received, the county can develop and implement a Capital Improvement Plan (CIP) to address parking lots on a yearly basis.

Mr. Brown stated during the process of developing a CIP, deficiencies will be identified so immediate corrective actions can be taken to prevent the identified problems from getting worse. Mr. Brown further stated in order to address these deficiencies, some level of funding needs to be appropriated.

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Mr. Brown stated the recommendation of staff is for a budget revision in the amount of \$100,000 to be used for making critical repairs within parking lots at county facilities as identified by the Engineering and Infrastructure Department. Ms. Cannon stated the \$100,000 could come from the roofing and pavement line item.

MOTION: Commissioner Edge moved to recommend to the full Board to approve staffs' recommendation for a budget revision in the amount of \$100,000 to be used for critical repairs within county parking lots.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (2-0)

## 7. CONSIDERATION OF REQUEST OF NEW CENTURY SOLAR, LLC. FOR AN EASEMENT AGREEMENT

Rick Moorefield, County Attorney, stated New Century Solar, LLC, has again requested an easement to install solar panels on the roofs at the New Century Elementary School and New Century Library. Mr. Moorefield explained this same request was considered by the Board of Commissioners on September 19, 2011 and the Board took no action at that time.

Mr. Moorefield stated he advised the attorney for New Century Solar, LLC that the county would require any roof maintenance or removal to be the obligation of a public utility company because a newly formed LLC is essentially judgment-proof. Mr. Moorefield also advised the attorney for New Century Solar, LLC that the county would require the following terms:

- Termination of the easement if the roofs are destroyed by any casualty;
- Roof maintenance;
- Removal and re-installation of the panels to accommodate any maintenance or repair not performed pursuant to the agreement; and
- Removal of the panels with the roof returned in good repair in the event the system is abandoned without the intent to continue to generate electricity.

Mr. Moorefield stated New Century Solar, LLC has provided an easement agreement which addresses the terms the county attorney advised the county would require as follows:

- As to the destruction of the roof, Section 13 (c) requires the county to give written notice of its intent to restore or not restore the roof within 90 days of the event causing the building to be damaged. The county attorney stated this is acceptable.
- As to the roof maintenance, Section 13 (b) states New Century Solar, LLC will be responsible for any roof puncture, leak, malfunction or any other event which is caused by the system and requires repairs to the property, including the building. The county attorney stated it is not clear this includes the damage to the roof. The

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county attorney stated New Century Solar, LLC, is a newly formed LLC and advises against accepting this maintenance being the obligation of this LLC.

- As to the removal of roof maintenance by the county or the school system, Section 13 (c) states the LLC will be responsible for the removal and replacement upon 120 days advance notice, except in the case of an emergency, and the removal will not exceed 20 days. The county attorney advises against accepting this removal being the obligation of this LLC.
- As to the removal of the solar panels if the system is abandoned, section 13 (f) states that the LLC will have this responsibility. The county attorney advises against accepting this removal being the obligation of this LLC.

Mr. Moorefield stated the installation of this system on the roof creates the potential that any roof maintenance will become more difficult. Mr. Moorefield stated the LLC has agreed to be responsible for the repairs caused by the system and for the removal of the panels if necessary for other repairs. Mr. Moorefield further explained the LLC is newly formed and has no assets other than this system which will be fully encumbered by financing.

Mr. Moorefield stated these circumstances create the potential for additional maintenance costs to be borne by the school system with county funding. Mr. Moorefield stated the agreement further creates potential liabilities and obligations on the county which otherwise do not exist. Mr. Moorefield explained although the county's bond counsel has indicated this transaction does not impair the financing associated with this school, Mr. Moorefield advises that the county should receive a formal opinion from bond counsel in that regard. Mr. Moorefield stated some of these conditions must really be met by the school system and the school system needs to be a party to this agreement for that reason.

Mr. Moorefield stated he recommends advising against entering into this agreement for the reasons stated above. Mr. Moorefield stated if some of the strong language can be modified, he would have no objection to the agreement.

Robert Ferris, SFL&A Architects, presented photographs of New Century Elementary School and New Century Library and gave a brief explanation of the project. Mr. Ferris stated the next step in the project is to install solar panels in order to achieve net-zero status and in order to do so, they need an executed easement from the county. Mr. Ferris presented a copy of a letter received from the roof manufacturer that states if there is a leak in the roof they are required under warranty to take the solar panels off, fix the leak, and put the solar panels back on the building.

Mr. Ferris stated he feels all of the county attorney's concerns can be addressed. Mr. Ferris responded to questions and discussion followed. Mr. Ferris stated the LLC has a net worth of roughly \$3 million dollars.

Commissioner Edge stated he understands that there is no cost to the county, no cost to the school system, and no cost to PWC regarding this project. Commissioner Edge further stated PWC and the school system have written letters supporting this project.

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MOTION: Commissioner Edge moved to recommend to the full Board to enter into an easement agreement with New Century Solar, LLC.

SECOND: Commissioner Keefe

DISCUSSION:

Commissioner Keefe asked the county attorney if his concerns had been alleviated. Mr. Moorefield stated if the maintenance responsibility language of the agreement can be cleaned up, he will have no objection to entering into an easement agreement. Mr. Ferris stated they will add a clause stating New Century Solar, LLC will cover the cost if any solar panels that have to be removed to perform routine maintenance.

VOTE: UNANIMOUS (2-0)

8. OTHER ITEMS OF BUSINESS

There were no other items of business.

MEETING ADJOURNED AT 9:50 AM.

July 10, 2012

Sally Shutt  
Communications and Strategic Initiatives Manager  
Cumberland County  
P.O. Box 1829  
Fayetteville, North Carolina 28302



Dear Ms. Shutt,

I hope that you will consider this letter our request for the unusual use of the "Old Courtroom" in the Court House on Gillespie Street. We understand that this is not a request that you receive regularly, but I hope that you will present our case to the Commissioners for their consideration.

Here are the specifics of our request:

- **Project:** Two one person performances by Mr. Gerald Dickens, great-great-grandson of Mr. Charles Dickens as part of "A Dickens Holiday".
- **Date/Time:** November 23, 2012 from 9:00 a.m. to 7:00 p.m. This time includes all necessary set-up and clean-up times for two performances with *A Christmas Carol* at 1:00 p.m. and *Mr. Dickens is Coming* at 4:00 p.m. Only a few props are to be used in the performances.
- **Price:** This event is free to the general public on a "first come, first serve" basis. A nominal fee to be charged for a limited number of Dickens Holiday packages which would include: a reserved seat for Mr. Dickens' performance, a copy of the book "A Christmas Carol" with a special bookplate signed by Gerald Dickens and a keepsake photo with Mr. Gerald Dickens. This fee to be used to help offset the cost of the performances.
- **Reason for Request:** "A Dickens Holiday" is an annual gift to the people of our community and represents the official opening of our local holiday season. This is a special year in that it is the 200<sup>th</sup> anniversary of the birth of Mr. Charles Dickens. We feel the old courtroom would provide the perfect setting for Mr. Gerald Dickens. As an Arts Council, we enrich our community by supporting the arts and artists. We also realize and appreciate the support of the County Commissioners in helping us work to this common end. We feel that featuring Mr. Dickens as an actor focusing on the literary works of Mr. Charles Dickens would be very mission fulfilling as together we seek to enrich the lives of the people in our community.

301 Hay Street  
P.O. Box 318  
Fayetteville, NC 28302  
910.323.1776  
910.323.1727 Fax

[www.theartscouncil.com](http://www.theartscouncil.com)

e-mail:  
[admin@theartscouncil.com](mailto:admin@theartscouncil.com)

Please let me know if you have any questions about our request. We look forward to your response.

Sincerely,

  
Robert C. Pinson

Operations Director  
Arts Council Fayetteville/Cumberland County

RICKEY L. MOOREFIELD  
County Attorney



PHYLLIS P. JONES  
Assistant County Attorney

**OFFICE OF THE COUNTY ATTORNEY**

5<sup>th</sup> Floor, New Courthouse • PO Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829  
(910) 678-7762

**MEMO FOR THE AGENDA OF THE  
SEPTEMBER 6, 2012 MEETING OF THE FACILITIES COMMITTEE  
(SECOND REVISION)**

**TO:** Facilities Committee; Co. Manager; Asst. Co. Manager; John Meroski, FACVB  
**FROM:** Co. Atty. *R. Moorefield*  
**DATE:** August 30, 2012  
**SUBJECT:** Lease of Both Floors of the Robeson S & L Bldg. to the FACVB

**BACKGROUND:**

With Community Development moving from the old Robeson S & L Building on Person Street to its new location, the FACVB has requested to lease both floors of the building, consisting of 7,049 square feet. The FACVB has leased the ground floor since June 16, 1997 for \$10,000 annually. The lease apparently expired on June 1, 2007 and the FACVB has continued as a holdover tenant. The FACVB has requested an annual rental of \$22,000 for the entire building for a ten year term. The FACVB would be responsible for all utilities, janitorial, signage and minor repairs to the interior. The County would remain responsible for the parking lot, the exterior of the building and the landscaping. The FACVB would maintain general liability insurance with \$1,000,000 coverage.

Because the original term extended beyond ten years and must be counted toward any renewal, the lease must be treated as a sale. As the FACVB is a non-profit entity which carries on a public purpose, this will only require that the lease terms be advertised and avoids the transaction being subject to the upset bid procedure. The Board must find that the building will not be needed for government purposes during the term of the lease.

**RECOMMENDATION/PROPOSED ACTION:**

Consider whether to continue to lease this building to the FACVB and, if so, under what terms.