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**Minutes**  
**Cumberland County Board of Commissioners**  
**February 21, 2000, 7:00 PM**  
**Regular/Rezoning Meeting**

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**PRESENT:** Chairman, Ed

Melvin  
J. Lee Warren, Jr.  
Talmage Baggett  
Billy R. King  
H. Mac Tyson II  
Strassenburg, County Manager  
Deputy County Manager  
Assistant County Manager  
Assistant County Manager  
Barrett, County Attorney  
Planning Department  
Planning Department  
Raynor, Deputy Clerk

Vice Chairman,  
Commissioner  
Commissioner Breeden Blackwell  
Commissioner  
Commissioner  
Cliff  
James Martin,  
Juanita Pilgrim,  
Cliff Spiller,  
Grainger  
Jerry Thomas,  
Matt Rooney,  
Rhonda C.

**ABSENT:** Commissioner

Thomas B. Bacote (Due to Illness)

**INVOCATION:**

Commissioner Billy King

**PLEDGE OF ALLEGIANCE**

## **Amendment to the Agenda:**

The County Manager advised the Board that Sheriff Butler would give an update regarding the current situation at the Jail in the aftermath of the fire on Friday, February 18<sup>th</sup>.

Sheriff Butler advised a fire broke out in the Cumberland County Jail at 6:45 PM on Friday, February 18<sup>th</sup>. Fifteen minutes later, the Jail was evacuated. The evacuation plan worked well. There were 361 inmates in the jail at the time of the fire. No one suffered any serious injuries. There was excellent cooperation between law enforcement and emergency service agencies. The County shipped 312 inmates to other facilities. Johnston County took the toughest felons. Inmates are being housed at Mitchell Prison in Avery County, the Western Youth Institution and in Albemarle. The Sheriff's Office is now confronted with the problem of housing those prisoners brought in on a daily basis.

Sheriff Butler thanked District Attorney Ed Grannis and Resident Superior Court Judge E. Lynn Johnson for their assistance in releasing as many offenders as possible by expediting those cases. The Sheriff's Office has identified 50 inmates they hope to bring back to the county for sentencing or adjudication. The real problem lies with those who are currently being arrested. He thanked the County Manager and his staff for their assistance.

Sheriff Butler noted the major damage to the jail is in the duct system. The building is structurally okay. They are currently working to get the air handling system repaired. The cost to house these prisoners out of the county is substantial. Costs have also been incurred to pay for staff to accompany the prisoners.

Vice Chairman Warren noted this situation has helped all of us exhibit what can be done when we work as a team. He commended everyone who has provided assistance during the disaster.

Commissioner Baggett advised he had toured the jail with Vice Chairman Warren. He noted the jail trustees that asked to stay and help clean up the facility. He stated that situation speaks well for Major Ford and the jail staff.

Chairman Melvin thanked the Sheriff and his staff for their work during this emergency.

Mr. Strassenburg noted the County's main objective at this time is to get the facility in shape so that it can be occupied again as quickly as possible. It is costing the County \$40.00 per day to house each inmate in another facility. The problem is in the canteen cold air return. The smoke went through the cold air

return. It went through the third and fourth floor and out the equipment on the roof. The residue in the ductwork must be cleaned and some of it will have to be replaced. Proposals have been solicited from the company that did the cleanup at Cape Fear High School. The County has a proposal in hand and the work has been authorized. He then noted the Resolution that had been prepared for adoption by the Commissioners. The General Statutes permit waiving the formal bid process in a time of emergency. He has consulted with the County Attorney and they have determined an emergency exists. The resolution needs to be adopted so that protection will be in place and management has the necessary authorization to proceed.

**MOTION:** Commissioner Warren offered a motion to add the Resolution concerning the Cumberland

County Jail emergency to the Consent Agenda.

**SECOND:** Commissioner Tyson

**VOTE:** UNANIMOUS

## **RECOGNITIONS**

Recognition of county retiree: Sybil Knowles, Tax Administration.

Recognition of Outgoing Board/Committee Member; Janet K. Gardner – Library Board of Trustees.

## **1. PUBLIC HEARINGS:**

### **Uncontested Rezoning Cases:**

The County Attorney advised the following corrections to item 1-E, Case P00-4:

Section 4.23.2 Review and Approval of Conditional Use Overlay Permits

(a) Standards for review:

The items under this section (i), (ii), (iii) should have the word "and" at the end of each sentence rather than "or".

**Upon finding the requests to be reasonable, neither arbitrary or unduly discriminatory and in the public interest and that the property within such proposed districts is suitable for all uses permitted by the new classifications, the following motion was offered for the uncontested rezoning cases:**

**MOTION:** Commissioner King offered a motion to follow the Planning Board recommendation on the Uncontested cases.

**SECOND: Commissioner Blackwell**  
**VOTE: UNANIMOUS**

**A. Case No. P99-77.** The rezoning from R6A Residential to C3 Heavy Commercial or to a more restrictive zoning district on the south side of Cumberland Road, west of Smith Street, the property of Marion R. Starling.

The Planning Board recommends approval of the rezoning to C3 Heavy Commercial.

**B. Case No. P99-82.** The rezoning from RR Rural Residential to C(P) Planned Commercial or to a more restrictive zoning district on the south side of NC HWY 24, west of Shelton Beard Road, the property of Lacie Tew.

The Planning Board recommends approval of the rezoning to C(P) Planned Commercial.

**C. Case No. P99-86.** The rezoning from R6A Residential to C(P) Planned Commercial or to a more restrictive zoning district on the north side of Cumberland Road, east of George Owen Road, the property of Terry Spell Realty and HTM Investments, Inc.

The Planning Board recommends approval of the rezoning to C(P) Planned Commercial.

**D. Case No. P00-2.** The rezoning from R10 Residential to C1 Local Business or to a more restrictive zoning district on the south side of Cumberland Road, east of Stonehaven Drive, the property of Julie Renee Raymes.

The Planning Board recommended approval of the rezoning to C1 Local Business.

**E. Case No. P00-4.** Consideration of revisions and amendments to the Cumberland County Zoning Ordinance by revising Appendix A, Article IV, Overlay Districts, Section 4.22, Conditional Use Overlay Permits and Section 4.23.1, Review, Recommendation and Approval

of Petitions and Motions;  
and adding Section 4.23.2, Review and Approval of Conditional Use Overlay Permits.

The Planning Board recommended approval of the amendment.

**F. Case P00-5.** The rezoning from C(P) Planned Commercial to M(P) Planned Industrial or to a more restrictive zoning district on the south side of Wilkes Road, east of Jenkins Street, the property of Head, Incorporated.

The Planning Board recommended approval of the rezoning to M(P) Planned Industrial.

### **Contested Rezoning Case:**

**G. Case P99-73.** The rezoning from R15/CU Residential and O&I/CU Office and Institutional to C(P) Planned Commercial or to a more restrictive zoning district on the south side of Raeford Road, west of Clifffdale Road, the property of Westin, LLC and John A. Williams, et al.

The Planning Board recommended approval of the rezoning to C(P) Planned Commercial.

### **Speakers:**

1. Neil Yarborough, representing ELI Group, the owner of Bi-Lo stores: Mr. Yarborough presented an information packet containing an overhead photograph of the property; site plan indicating how the property may be used under the present zoning; a site plan indicating the proposed use if rezoned and a picture of a typical Bi-Lo store as proposed for the site. He advised the rezoning would help accomplish what is going to be of the most benefit. Under the current zoning, the retail would be narrowly compressed with a Clifffdale Road orientation. The proposed rezoning will allow for a less dense application and one that makes sense. The development will provide a \$6 - \$7 million tax base increase as well as sales tax revenue. There is community opposition to the rezoning. The owners have tried to address the concerns of the residents of Tunbridge. The petitioner has received 50 letters of support for the rezoning. The adjacent commercial property owners are supportive. He noted the 50-foot tree line "no cut" buffer between the subject property and the adjacent neighborhood. The owner has added an

additional ten feet of buffer to the current 50 feet. A fence will be built along the Tunbridge Subdivision property line of the same architectural nature of the neighborhood. The owner has also offered a sewer easement to the neighborhood. They want to be good neighbors. They feel this development will allow orderly, reasonable growth that will provide a valuable growth.

Commissioner Tyson stated he has reviewed the materials on this case and the minutes of the Planning Board November 16, 1999 meeting. Two individuals on the planning board left the room when this case was heard. One of those members is a relative of his. He noted he did not know any of the parties of record in this matter. He asked the County Attorney if he could abstain from voting on this case if he so desired.

County Attorney Barrett advised Commissioner Tyson he could not abstain from voting on this case unless he has a personal conflict or financial interest. If no such situation exists, North Carolina General Statutes require that he vote on this case.

2. Wesley Meredith: He is building a house in the area and has no problem with the rezoning. The owner has always done more than was required with landscaping. He owns four lots in the neighborhood.

3. David Evans: He is the head of marketing for Floyd Properties and has worked with developing this area. They want the lots to sell as quickly as possible. He has spoken with some of the current neighborhood residents and they have indicated they would be glad to see the rezoning, as it would increase their buffer.

4. Jerome Brown: In opposition to the rezoning. Mr. Brown is a resident of Tunbridge. He asked the Commissioners to look at the quality of life. He agreed with the zoning of the property in 1993 in which it was changed from residential to commercial. That is the reason for the buffer and the R10 zoning. They were told at the time of that rezoning that it would be developed into residential with a transition into commercial. Tunbridge is a stable neighborhood. He asked the residents from the neighborhood that were in opposition to the rezoning to stand (approximately 12 people stood). He noted the residents care about their neighborhood and what happens to it. He noted the 2010 Land Use Plan has not been discussed during this process. He advised the nearby Food Lion lease has a "no competition" clause. If the rezoning is approved and the Bi-Lo cannot be built, what would happen then? He asked the Commissioners to keep the covenant reached in 1993. He is not in opposition to the development of the property as it is currently zoned. There are four other grocery stores located nearby. He

asked the Commissioners to follow the recommendation of the Planning staff.

5. George Matthews: In opposition to the rezoning. He is a resident of Tunbridge and the chairman of the Community Watch Association. He stated there appears to be a level of deception in this process. He was under the impression an agreement had been reached in 1993 concerning the zoning. He is confused about the building of a Bi-Lo when there is a Food Lion across the street. Mr. John Tyson and another person asked several residents for support on this matter. He is not comfortable with the fact Mr. Tyson was Chairman of the Planning Board at the time. Mr. Tyson did not inform them of that fact at the time. He thought he could trust his political leaders and did not think they would have to fight this battle.

Mr. Yarborough appeared in rebuttal. He advised the owners did not know in 1993 that Cliffdale Road would be extended across Raeford Road to cut through the subject property. The neighborhood knows what is in their best interest. He reiterated the increase in the 50-foot buffer and the erection of the fence if the rezoning is approved. If the road had not split the property, they would not be requesting the rezoning.

Commissioner Baggett asked what the hours of operation for the grocery store would be.

Mr. Yarborough advised the hours would be whatever the market requires. It could be 24 hours. If apartments were built there, they would be open 24 hours a day.

Commissioner Baggett stated he does not feel a well-run grocery store and a well-run apartment complex are comparable.

Jerome Brown appeared in rebuttal. The road Mr. Yarborough is referring to is the same road that was there in 1993 and the owner agreed to the road and the zoning. Now the owner is saying the property cannot be developed. When apartments were discussed in 1993, it was stated they would be "garden-type" apartments, 1,500 square feet in size. He does not see why the property must be developed commercial. They do not need another grocery store.

Commissioner Warren noted it was disturbing to hear citizens had lost faith in the political process. He and Commissioner King were on the board in 1993 when this zoning was changed. It is important to him that citizens have faith in their leadership.

**MOTION: Commissioner Warren offered a motion to follow the Planning staff**

recommendation and deny  
the request.

**SECOND: Commissioner Baggett**

**DISCUSSION: Commissioner Blackwell asked for an explanation of the 1993 agreement.**

Commissioner King noted he vaguely recalls an agreement in principal that the Commissioners heard what the residents wanted and the owners would try to proceed accordingly.

Mr. Thomas advised tract #7 of the subdivision was created as a buffer to maintain the transition. The conditional use was for the development of water and sewer.

Commissioner Blackwell asked if the Board should be concerned about a "no competition" clause for the Food Lion?

Mr. Barrett advised the Board should not consider any "no competition" clause Food Lion may have.

Commissioner Tyson asked where the sewer easement would be located.

Mr. Yarborough advised it would run from Cliffdale Road to the south of the retention pond and into the Tunbridge line.

**VOTE: UNANIMOUS**

**H. Case P99-76.** The rezoning from R10 Residential to C(P) Planned Commercial or to a more restrictive zoning district on the south side of Camden Road, west of King Charles Road, the property of Belton Wayne Jones.

The Planning Board recommended approval of the rezoning to C(P) Planned Commercial.

**Speaker:**

1. Dallas Byrd: He is the real estate broker and agent for the owner. He advised that when the request was taken to the Planning Board, a dog daycare was to be operated on the property. There also was a person interested in the property who wished to locate a child daycare on it. The person who wanted to do a dog daycare was not able to purchase the property. The Board of Adjustment approved the placement of the dog daycare during this time. The person who now wishes to purchase the property will operate a child daycare center. A well and septic tank have had to be put on the property and the lots have been combined. The owner feels the R10 section should be zoned the same as the rest of the lot.

Commissioner Tyson asked if the Board had any way to ensure a child daycare and not a dog daycare goes onto the property.

Mr. Barrett advised it could be accomplished with a Conditional Use Overlay. However, the Planning Board must reconsider it in order to apply a Conditional Use Overlay.

Commissioner Tyson asked Mr. Byrd if the owner would be agreeable to a Conditional Use Overlay.

Mr. Byrd advised he could answer neither yes nor no to the question.

Commissioner King advised that in the past, the Board has tended to grant a rezoning request when parcels similar to the ones discussed are owned by the same person and the owner wishes to have all the property zoned the same.

**MOTION: Commissioner King offered a motion to approve the C(P) zoning request.**

**SECOND: Commissioner Blackwell**

**VOTE: Favor: Commissioners Blackwell, Warren, Melvin and King**

**Oppose: Commissioners Tyson and Baggett**

## **Minimum Housing Hearings**

**I. MH704-99.** Property of William Carl and Vida L. Long, 2420 George Owen Road, Fayetteville, NC, PIN#0405-83-6747.

### **AFFIDAVIT OF THE HOUSING INSPECTOR'S REPORT BEFORE THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS**

I, Kim Reeves, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

**BACKGROUND:** That the following is a report on case number MH 704-99 and is identified as Item Number 1-I.

**Property Owner:** **William Carl & Vida L. Long**

**Property Address:** 2420 George Owen Road (14 x 16 frame accessory structure)

**Tax Parcel Identification Number:** 0405-83-6747

**SYNOPSIS:** This property was inspected on **5/21/99 and 2/21/00**. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on **6/23/99**. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for accessory structures, or be demolished and the debris removed from the premises by a date not later than **9/23/99**. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. An appeal was filed. On **10/12/99** the Housing Appeals Board granted a fifty (50) day extension of time until **12/1/99**.

Upon my visit to the property on **2/9/00 and 2/21/00** no corrective action had been made to the structure. The structure is presently vacant and secured. In its present state, this structure constitutes a fire, health, and safety hazard.

The estimated cost to repair this structure to a minimum standard for accessory structures is \$2,000.00. The Assessor for Cumberland County has this structure presently valued at \$236.00

**RECOMMENDATION: IT IS THE RECOMMENDATION OF THE INSPECTION DEPARTMENT THAT THE STRUCTURE BE DEMOLISHED, AND THE DEBRIS REMOVED FROM THE LOT.**

There were no speakers for this case.

**MOTION: Commissioner Melvin offered the following motion:**  
**To adopt the order and report of the Minimum Housing Inspector as the true facts in this case,**  
**and**  
**To order the property owner to remove or demolish the dwelling within 90 days.**  
**To order the Inspector to remove or demolish the dwelling if the owner fails to do so, and impose a**  
**lien on the real property for the cost of such action.**  
**To direct the Clerk to incorporate the foregoing findings and orders in an ordinance certified by**  
**the Chairman and record the same in the Register of Deeds.**

**SECOND: Commissioner King**

**VOTE: UNANIMOUS**

**J. MH711-99, MH712-99, MH713-99, MH714-99, MHY715-99.**  
Five separate structures of Elaine  
Parnell Averitte located on Hardy Street, Fayetteville, NC PIN#0425-03-5746  
and 0425-03-5951.

**BACKGROUND:** Previously the above referenced Minimum Housing Cases were brought before the Board and action was deferred due to the ownership status of the property. At that time the property was in tax foreclosure.

On December 22, 1999, the owner paid the taxes due and subsequently sold the property to Mr. Y Mrs. Brewington. Since that date, one structure has been demolished and substantial renovation has taken place on the remaining four structures. Considering the tremendous amount of work that has been

accomplished and the fact that the structures no longer represent a fire, health and safety hazard to the community, it was requested that these cases be removed from the agenda.

The County Inspections Department looks forward to the completion of these projects through normal permit and inspection procedures.

**MOTION:** Commissioner Tyson offered a motion to withdraw this action.

**SECOND:** Commissioner King

**VOTE:** UNANIMOUS

**K. Closing of a portion of Elm Street located in the Colonial Heights Subdivision.**

**BACKGROUND:** The property owners adjacent to both sides of Elm Street have petitioned to close a portion of Elm Street located in Colonial Heights Subdivision Addition 5 from Sanders Street to Oak Drive in Pearce's Mill Township.

BEGINNING at the South side of Oak Drive; said point being South 76 degrees East 194.6 feet from the northeastern margin of Pine Street. Thence for a first call South 10 degrees 30 minutes East 222.70 feet to the South eastern corner of Lot 3 and the northeastern corner of Lot 4 of Colonial Heights Subdivision Addition 5 as recorded in Plat Book 18, Page 74. Thence South 16 degrees 30 minutes West 250.30 feet to the southeastern corner of Lot 8 of the aforementioned plat and the northern margin of Sanders Street. Thence South 73 degrees 30 minutes East 60 feet to the southwestern corner of Lot 22 of Colonial Heights Subdivision Addition 5 as recorded in Plat Book 18, Page 74. Thence North 16 degrees 30 minutes East 261.8 feet to the southwestern corner of Lot 18. Thence North 10 degrees 30 minutes West 212 feet to the northwestern corner of Lot 17 of the aforementioned plat and the southern margin of Oak Drive. Thence North 76 degrees West 60 feet to the point and place of beginning. Being property located in Pearce's Mill Township, Cumberland County; shown on Cumberland County tax map as a PIN #0423.02-67-4885 and #0423.02-68-5025 and #0423.02-68-7182 and #0423.02-67-7947 and #0423.02-67-6890.

At its December 20, 1999 meeting, the Board scheduled a public hearing for January 18, 2000. This portion of Elm Street is not maintained by the State. The Fire Marshall and Department of Transportation and the Planning Department have no objection to the closing.

**Speakers:**

1. Ray Willis: He stated he is of the understanding that since this is a sixty foot street, once it is closed, the property owners on either side will be given thirty feet. He asked if that was correct and how the property owners would have proof that they owned the thirty feet.

Mr. Barrett advised Mr. Willis that the property owners on each side of the street would get thirty feet of the road once it was closed. Their proof of ownership would be in the documents filed by the County Attorney's Office and filed in the Cumberland County Register of Deeds.

2. Mrs. Ray Willis: She asked how far back from the property line would they need to place a chain link fence.

Mr. Barrett recommended Mr. and Mrs. Willis check their restrictive covenants to determine the setback line for a fence.

**ACTION:** Adopt the Order.

**MOTION:** Commissioner Warren offered a motion to accept the statutory findings, close the street and adopt the Order.

**SECOND:** Commissioner Blackwell  
**VOTE; UNANIMOUS**

### **ORDER CLOSING A PORTION OF ELM STREET**

**WHEREAS**, William Russell Caulkins and wife, Donna K. Caulkins and Mr. Edward Ray Willis have submitted a petition to the Cumberland County Board of Commissioners to close a portion of Elm Street in Cumberland County; and

**WHEREAS**, following proper notice, said Board held a public hearing on the question of the closing of such street on the 21<sup>st</sup> day of February, 2000, and heard all interested persons who appeared with respect to whether the closing would be detrimental to the public interest or to any individual's property rights; and

**WHEREAS**, pursuant to the public hearing the said Board found and determined that such public street is not under the control of the North Carolina Department of Transportation; that no person would be deprived of reasonable means of ingress and egress to their property by such closing; and that it is therefore not contrary to the public interest to close such street;

**NOW, THEREFORE**, the Board of Commissioners of Cumberland County hereby **RESOLVES** pursuant to authority granted by G.S. 153A-241, that the public street more particularly described below be and it hereby is, closed:

BEGINNING at the South side of Oak Drive; said point being South 76 degrees East 194.6 feet

from the northeastern margin of Pine Street. Thence for a first call South 10 degrees 30 minutes East 222.70 feet to the South eastern corner of Lot 3 and the northeastern corner of Lot 4 of Colonial Heights Subdivision Addition 5 as recorded in Plat Book 18, Page 74. Thence South 16 degrees 30 minutes West 250.30 feet to the southeastern corner of Lot 8 of the aforementioned plat and the northern margin of Sanders Street. Thence South 73 degrees 30 minutes East 60 feet to the southwestern corner of Lot 22 of Colonial Heights Subdivision Addition 5 as recorded in Plat Book 18, Page 74. Thence North 16 degrees 30 minutes East 261.8 feet to the southwestern corner of Lot 18. Thence North 10 degrees 30 minutes West 212 feet to the northwestern corner of Lot 17 of the aforementioned plat and the southern margin of Oak Drive. Thence North 76 degrees West 60 feet to the point and place of beginning. Being property located in Pearce's Mill Township, Cumberland County; shown on Cumberland County tax map as a PIN #0423.02-67-4885 and #0423.02-68-5025 and #0423.02-68-7182 and #0423.02-67-7947 and #0423.02-67-6890.

And the Board further **RESOLVED**, that a certified copy of this Resolution be recorded in the Cumberland County Registry.

Adopted this 21<sup>st</sup> day of February, 2000.

## **L. Community Development Consolidated Plan**

**BACKGROUND:** Community Development is in the middle of the planning process for the Consolidated Plan and Annual Action Plan. Both of these reports are required documents that must be submitted to the U.S. Department of Housing and Urban Development (HUD) by May 15, 2000 in order to receive our annual entitlements of Community Development Block Grant (CDBG), Home Investment Partnership Act (HOME) and Emergency Shelter Grant (ESG) funds.

The Consolidated Plan is an assessment of the needs and resources of the community and establishes priorities and strategies for addressing those needs. Federal regulations require that the community assessment include a housing market analysis as well as a housing and homeless needs assessment. Community Development has secured the services of Mullin and Lonergan Associates to assist in the preparation of these assessments. HUD also mandates that Community Development consult with local public health organizations/child welfare agencies, adjacent units of local government, and public housing authorities in order to assist in the assessment of the community's needs. These consultations will be facilitated by Community Development staff.

Prior to submission of the Consolidated Plan and Annual Action Plan, federal regulations require that input from the community at large be solicited. Community Development has conducted both citizen and agency surveys as an additional means of finding out the needs of the community.

There were no speakers for this public hearing.

**No Action Was Needed On This Matter.**

## 2. CONSENT ITEMS:

**MOTION:** Commissioner Warren offered a motion to follow staff recommendations on the items on the Consent Agenda.

**SECOND:** Commissioner Tyson

**VOTE:** UNANIMOUS

**A. Approval of minutes for the February 7, 2000 regular meeting.**

**ACTION:** Approve the minutes.

**B. Cape Fear Valley Health System Matters:**

**(1) Approval of an amended Certificate of Need Application for the West Wing Project.**

**BACKGROUND:** On January 26, 2000 the Cape Fear Valley Health System Board of Trustees approved submitting an amended Certificate of Need Application for the West Wing Project to the Division of Facilities Services which will reflect a total cost of \$12,075,399.00 for the project. The Board of Trustees recommended the Board of Commissioners approves the submittal of the amended CON Application.

**ACTION:** Approve submittal of an amended Certificate of Need Application of the West Wing Project to the Division of Facilities Services reflecting a total project cost of \$12,075,399.00.

**(2) Approval of a Certificate of Need Application for inpatient hospice beds at the Melrose Center.**

**BACKGROUND:** On January 26, 2000 the Cape Fear Valley Health System Board of Trustees approved submitting to the Division of Facilities Services a Certificate of Need Application for inpatient hospice beds at the Melrose Center. The Board of Trustees recommended the Board of Commissioners approves the submittal of the CON Application.

**ACTION:** Approve submittal of a Certificate of Need Application for inpatient hospice beds at the Melrose Center to the Division of Facilities Services.

**C. Declaration of foreclosed real property surplus and authorization for sale.**

**BACKGROUND:** The County of Cumberland has acquired by tax foreclosure certain real property located in the County. The properties are listed below:

### FORECLOSED PROPERTY (2/7/00)

Description	Date Acquired	Value
Deed PIN No.		
Lt 27 Nimocks Land 5182-138 0437-61-1681	8-31-99	7,109
	House on Property	
Lt 26 Nimocks Land 5182-135 0437-61-1632	08-31-99	6,661
	House on Property	
522-24 S/S Scarborough Street 5182-132 0437-81-8015	08-31-99	2,500
Lt 12 Willie H Dancy Subd 5182-129 0428-97-8868	08-31-99	3,000
Lt 192 Sunset Park Sec 3 Pt 2 126 9487-73-7205	08-31-99	6,730
		5182-
Lt 89 Lake Point Place Sec 2 5182-120 9496-61-4705	08-31-99	2,000
	Unbuildable lot	
0.33 acs off Shaw Rd 5129-352 0419-43-9406	06-08-99	2,250
	Landlocked	
12 acs Fisher Ld 5129-349 0460-37-0061	06-08-99	8,326
	Landlocked	
Lt 270 Westpoint Sec 6 5129-346 9477-80-6823	06-08-99	1,300

Lt 270 Westpoint Sec 6 5129-337      9477-70-7976	06-08-99	1,300
0.64 ac Land 5129-340      0414-54-0225	06-08-99	1,024
Wetlands		
Lt W/S Hwy 301 5129-343      0412-69-2765 (5999 Maybank Dr)	06-08-99	6,000

**ACTION:** Declared the twelve tracts of foreclosed property as surplus to the needs of the County.

Authorize the sale of the foreclosed property by negotiated offer, advertisement, and upset bid pursuant to N.C.G.S. 160A-269.

### **C. Acceptance of 1999 Hazardous Materials Emergency Preparedness Grant Agreement and authorization to execute.**

**BACKGROUND:** The Preparedness Committee of the North Carolina Emergency Response Commission has awarded a 1999 Hazardous Materials Emergency Preparedness (HMEP) Grant in the amount of \$1,000.00 to Cumberland County. The grant will be administered by the County Emergency Management Department. The grant is to be used for the continued implementation of the Emergency Planning and Community Right-to-Know Act and hazardous materials incident preparedness. The Board of Commissioners must approve accepting the grant and authorize the County Manager to sign the grant agreement on behalf of the county.

**ACTION:** Approve acceptance of the 1999 Hazardous Materials Emergency Preparedness Grant. Authorize the County Manager to sign the grant agreement on behalf of the county.

### **E. Approval of a Cape Fear Valley Health System sublease.**

**BACKGROUND:** On July 6, 1999 the Board of Commissioners adopted a policy for the consideration and approval of Cape Fear Valley Health System subleases. The policy stipulates that to be approved, each sublease must be in a form acceptable to the County Manager, the Office of the County Attorney, and the Board of Commissioners; be on economic terms that are substantially equivalent

to current market value; and be approved by the hospital CEO and consented to by the County Manager.

CFVHS has submitted a sublease with Carolina Regional Radiology for 41.67 square feet of space within the Cape Fear Valley Medical Center. The rent is 69.45 per month (\$20 per square foot) and the term of the sublease is from June 1, 1999 through May 31, 2000.

**ACTION:** Approve the Cape Fear Valley Health System's sublease with Carolina Regional Radiology.

**F. Approval of authorization to enforce the County Leash Law within the Town of Linden.**

**BACKGROUND:** At its joint meeting with the Town of Linden Board of Commissioners, that Board asked the Board of Commissioners to consider enforcing the County's leash law within the Linden town limits. The Linden Board of Commissioners has now adopted a resolution requesting that you authorize enforcement of the leash law within the Town of Linden. The Animal Control Board recommends approval by the Board of Commissioners.

**ACTION:** Approve the ordinance amendment to authorize enforcement of the County's leash law within the Town of Linden.

**G. Approval to discontinue the taxation of tobacco allotments.**

**BACKGROUND:** Cumberland County assesses a \$2.00 per pound tobacco allotment tax. The assessment is calculated as a part of the land valuation for specific tracts, which have been arbitrarily assigned the allotment. The term "arbitrarily" is used because the federal program managed by the Farm Services Agency (formerly the Agricultural Stabilization and Conservation Services) assigns the allotment to farm tracts identified on their maps for the farms, rather than to tax parcels identified on the County's maps. The FSA farm tract maps do not exactly correspond to the County's tax maps. Therefore their assignment of the allotment does not necessarily reflect the allotment available on any given tax parcel. No cross-reference maps exist which compare the County's maps to the FSA's maps. Farms usually contain more than one tax parcel and more than one FSA tract, however the allotment may not cover all of the tracts. Federal privacy laws prevented the sharing of the records on allotments by the former ASCS office, so the County could only request that farmers provide information regarding the allotments issued. No update of the allotment figures was conducted for the 1998, 1992 or 1996 revaluations. The last known attempt to update the records occurred in 1980, but those results cannot be confirmed. It

also cannot be confirmed that all allotments were recorded on the tax records. These figures have been carried forward since 1980. At best the tax office has old information that does not exactly correspond to the tax parcels for which they may be assigned.

Because of the difficulty of acquiring accurate allotment information many counties have discontinued valuing, assessing and taxing tobacco allotments. To acquire accurate information in Cumberland County will be a formidable task, and assigning it to the correct land area will be even more difficult. The tax office would first have to obtain accurate allotment information. The entire FSA coverage would have to be mapped on the tax maps. The information must then be regularly maintained. Without assigning the allotment to the correct parcel, no accurate land valuation that recognizes the allotment can occur. The cost of completing these tasks will far exceed the tax revenue generated.

There is another consideration. Land valuation considers all the factors that affect market value. When considering the market value of land in Cumberland County, the largest contributing factor to market value is the urban and suburban development being driven by the economic expansion. The limitations that suitable soil and location place on available farmland cause it to be far more valuable for its development potential, than for its tobacco allotment. This is further affected by the change in social attitudes toward tobacco, resulting in the decline and what may be the eventual demise of tobacco farming in the United States. When it is considered that tobacco allotments have been reduced 52% since 1996, it can be seen that the influence of the allotment on valuation and the revenue to be generated by taxation is significantly reduced.

**ACTION:** Discontinue the taxation of the tobacco allotments in Cumberland County.

## **H. Budget Revisions:**

### **(1) Health Department – School Health**

Increase in revenue and expenditures in the amount of \$8,594 to budget additional fees collected. (B00-484) **Funding Source - Fees**

### **(2) Community Development**

a. Planning/Administration: Revision in the amount of \$10,000 to reallocate funds to develop schematics for an additional building for Windows of Opportunity. (B00-491) **Funding**

## **Source - Federal**

b. Support Housing Administration: Increase in revenue and expenditures in the amount of \$18,901 to re-program funds unspent in FY99. (B00-493) **Funding Source – Federal**

c. Public Facility: Decrease in revenue and expenditures of \$162,141 to reconcile adopted budget to year-end audit. (B00-494) **Funding Source-Federal**

d. Support Housing; Revision in the amount of \$70,000 to recognize The Womens Center matching funds for the Ashton Woods Transitional Housing Project. (B00-502) **Funding Source-Other**

### **(3) Sheriff**

a. School Law Enforcement: Increase in revenue and expenditures in the amount of \$3,136 to recognize insurance settlement. (B00-495) **Funding Source-Other**

b. NC Controlled Substance Tax: Increase in revenue and expenditures in the amount of \$4,272 to roll forward additional prior year revenue. (B00-496) **Funding Source-NC Controlled Substance Tax**

### **(4) Mental Health**

a. MIS: Revision in the amount of \$1,058 to budget reclassification of Information Processing Assistant II position to Information Processing Technician. (B00-485) **Funding Source-State**

b. Administration: Revision in the amount of \$986 to budget reclassification of Accounting Tech I position to Accounting Tech II. (B00-486) **Funding Source-State**

c. DD Contract/periodic Outpatient Services: Revision in the amount of \$2,959 to transfer funding from DD Contracts to Periodic Outpatient Services to reclassify Staff Psychologist II position to Senior Psychologist I. (B00-487 and B00-487A) **Funding Source-County**

d. Willie M.: Decrease in revenues and expenditures in the amount of \$46,569 to reconcile the county budget to the State budget. (B00-488 through B00-488I) **Funding Source-State**

**(5) General Government Other**

Revision to recognize \$24,873 of unspent FY99 grant funds for the Juvenile Assessment Center. (B00-501) **Funding Source-State**

**(6) School Capital Outlay I**

Revision and Capital Project Ordinance in the amount of \$1,700,000 to appropriate fund balance to purchase the Fasco Manufacturing site to be used as a transportation garage, maintenance facility, warehouse for supplies and to provide additional office space. (B00-500) **Funding Source-Sales Tax**

**(7) NC School Bond Projects**

Revision to adjust the county's School Bond Project Fund based on actual and projected revenue and expenditures from the County Board of Education and to approve the associated revised Capital Project Ordinances. (B00-499) **Funding Source-NC School Bonds**

**I. Addition to the Agenda: Resolution Concerning a State of Emergency with the Cumberland County Jail.**

**A RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS**

**WHEREAS**, a public safety emergency occurred as a result of a fire breaking out in the Cumberland County Jail on Friday, February 18, 2000; and

**WHEREAS**, the said fire forced the emergency evacuation and relocation of over 300 detainees and inmates then housed in the Cumberland County Jail; and

**WHEREAS**, said fire has forced law enforcement agencies and representatives of the judicial department within the County to make alternative

arrangements for the detention or incarceration of arrested individuals who require being taken into custody; and

**WHEREAS**, there can be no assurance that there will continue to be capacity available in such other alternative sites for detainees and inmates from Cumberland County; and

**WHEREAS**, the loss of a functional jail makes it more difficult for the Cumberland County Sheriff to make available detainees for judicial proceedings in the Cumberland County General Court of Justice; and

**WHEREAS**, the Board of Commissioners wishes to minimize any threat to public safety or delay in restoring the Cumberland County Jail to its function as a public necessity as soon as possible; and

**WHEREAS**, the Board of Commissioners believes the present circumstance justifies exemption from the public bid requirements of G.S. 143-129(a) as a special public safety emergency, and such exemption would be in the public interest of the citizens of Cumberland County and would promote the public health, safety and welfare;

**NOW, THEREFORE**, the Cumberland County Board of Commissioners declares that the said fire of February 18, 2000 in the Cumberland County Jail has presented the County and the Cumberland County Sheriff's Office with a special, unforeseen and immediate public safety emergency; and it further

**RESOLVES**, that restoring the Cumberland County Jail to habitability and fitness for occupancy as soon as possible, and relocating the detainees and inmates who were forced to be evacuated back to the said Jail, is a time-critical project and constitutes a special public safety emergency that comes within the exception to the public bid provisions of G.S. 143-129(a); and it further

**RESOLVES**, that obtaining bids for repair of the Cumberland County Jail on an emergency basis to restore the Cumberland County Jail to habitability and to fitness for occupancy is in the public interest of the citizens of Cumberland County and will promote the public health, safety and welfare; and it further

**RESOLVES**, that the Cumberland County Sheriff, the Cumberland County Jail Administrator and the Cumberland County Manager, or their respective designees, are authorized to obtain on an emergency basis and without compliance with G.S. 143-129(a) a bid or bids for that repair work necessary to restore the Cumberland County Jail to habitability and to fitness for occupancy as soon as possible.

## Items of Business

### 3. Nominations to Boards and Committees:

**A. Area Mental Health Board (1 vacancy).**

Nominees: At-Large Position: Commissioner Blackwell  
nominated Linda Hair.

Commissioner King nominated Lisa McRae  
Commissioner Warren  
nominated Evelyn Parker Esworthy

**B. Home and Community Care Block Grant Committee (1 vacancy)**

Nominee: Commissioner Blackwell nominated Gretta Reese

**3. Appointments to Boards and Committees:**

**A. Cumberland County Youth Council (2 vacancies)**

Nominees: Ronald Buryk (Asked that his name be withdrawn.)

A. Allan Jordan  
Mattie Pipkin

**MOTION:** Commissioner Blackwell offered a motion to appoint A. Allan Jordan and Mattie Pipkin.

**SECOND:** Commissioner King

**VOTE:** UNANIMOUS

**B. Mid-Carolina Emergency Services Advisory Council (2 vacancies)**

Nominees: Emergency Department Representative  
Position: Katie Talk

General Public Representative Position:  
Janet M. Woods

**MOTION:** Commissioner Baggett offered a motion to appoint Katie Talk and Janet M. Woods.

**SECOND:** Commissioner King

**VOTE:** UNANIMOUS

**C. Nursing Home Advisory Board (1 vacancy)**

**Nominee: Janice Fairbank-Norris**

**MOTION:** Commissioner Baggett offered a motion to appoint Janice Fairbank-Norris.

**SECOND:** Commissioner King

**VOTE:** UNANIMOUS

**D. Cumberland County Workforce Development Board (2 vacancies)**

**Nominees:** Private Sector Representative Position: Ken Smith

Cathy

Traylor

**Vote on nominees:** Ken Smith: No votes.

Cathy Traylor: Commissioners Blackwell, Tyson, Warren, Melvin, Baggett & King.

Cathy Traylor was appointed.

**Community Based Organization Representative Position: Lloyd Horne**

**MOTION:** Commissioner Baggett offered a motion to appoint Lloyd Horne.

**SECOND:** Commissioner Blackwell

**VOTE:** UNANIMOUS

**5. Consideration of an Amendment to the Community Development Action Plan for the Fayetteville Technical Community College Public Facility Project.**

**BACKGROUND:** Fayetteville Technical Community College (FTCC) has the opportunity to purchase 10+/- acres of land behind the Southwinds Plaza Shopping Center in Spring Lake. The College has identified a growing need for a permanent center in the Spring Lake area and will seek funding from the North Carolina General Assembly to construct a multistory facility of approximately 65,000 square feet within the next two to five years. As this property is adjacent to the Spring Lake Library and Family Resource Center, the college facility would be a welcome addition to this complex.

Community Development is proposing to grant \$400,000 to FTCC as a contribution toward the purchase of this property. Because this is a new project, Community Development is required to amend its Action Plan to include the project. This is

an eligible Community Development activity and meets the objectives of our current Consolidated Plan. The second priority area of the Consolidated Plan is the lack of public services, such as education and job skills training, to large areas of the County. A facility like the one FTCC is proposing for the Spring Lake area would address this priority need.

Commissioner Baggett noted the fact that FTCC was ranked one of the top ten programs for adult education in the nation. He commended Dr. Larry Norris and his staff for their fine work.

Dr. Norris noted FTCC has offered classes at Spring Lake and Fort Bragg for some time. The area is growing and the needs have increased. FTCC has received a facilities master plan and it corroborated the needs in Spring Lake. The Mayor of Spring Lake is supportive of this expansion. He noted Lake Tree has offered some property as a gift/purchase. FTCC will be contacting the State Legislature for funding assistance.

**ACTION:** Approve amendment of the Community Development Action Plan to include the FTCC Public Facility Project.

**MOTION:** Commissioner Warren offered a motion to approve the amendment of the Community Development Action Plan to include the FTCC Public Facility Project along with the associated budget amendment.

**SECOND:** Commissioner Blackwell

**VOTE:** UNANIMOUS

## **6. Consideration of approval of the Lease and Franchise Agreement for the Snack Bar in the new DSS Building.**

**BACKGROUND:** A Franchise Agreement and Ordinance has been prepared by the County Attorney's office which would allow Sessoms Properties, Inc., to provide food services to the visitors and staff of the Cumberland County Department of Social Services located at 1225 Ramsey Street, Fayetteville, North Carolina.

The agreement and ordinance are in the correct form and legally sufficient to accomplish their purpose and their adoption and approval is within the power and authority of the Board.

**ACTION:** Approve the Franchise Agreement and instruct staff to place the agreement on a future agenda for a second reading.

**MOTION:** Commissioner King offered a motion to approve the Franchise Ordinance

and Agreement with  
Sessoms Properties, Inc. to provide food services at the Cumberland County  
Social Services  
building.

**SECOND: Commissioner Baggett**

**VOTE: UNANIMOUS**

**7. County Policy Committee Report and Recommendation regarding special funding requests.**

**BACKGROUND:** On February 7, 2000 the Board of Commissioners considered a request for funding assistance for the Douglas Byrd High School Marching Band's trip to Washington, DC to participate in the American Musical Salute Commemorating the New Millennium and the Bicentennial of the White House. The Board deferred action on the request and referred the matter to the County Policy Committee for consideration of a policy on special funding requests.

The County Policy Committee met on February 10, 2000 to consider a policy on special funding requests. The Committee adopted a motion "that the Policy Committee recommend to the Board of Commissioners that the following policy be established to determine special funding for recreation/arts activities:

1. The organization must have a formal structure (not-for-profit, membership organization) that is affiliated with or sanctioned by a public entity.
2. The organization must have open nondiscriminatory membership.
3. The organization must represent recreation or the arts.
4. The activity/event for which funding is requested must be an extraordinary event bringing distinction to Cumberland County.
5. The activity/event must be an unsolicited honor bestowed on the organization by a state or national organization, or an honor won through competition.
6. The activity/event cannot be a "leisure activity".
7. Participation in the activity/event cannot have been preplanned by the organization requesting funding.
8. The organization must be the only organization selected to represent the State of North Carolina.

9. The location of the activity/event must be at least 150 miles from Cumberland County and participation must require an overnight stay.
10. The activity/event cannot be a regular budgeted expense for the organization.
11. The organization must secure funding from multiple sources including public and private contributors.
12. The organization must submit a proposed budget showing objects of expenditure and sources of revenue for the activity/event.
13. The organization must submit a post activity/event actual expenditure and revenue recap.
14. The County's contribution cannot be more than 25% of the total cost of the activity/event and the maximum County contribution per participant cannot exceed \$50.00 (excluding chaperones, coaches and staff)."

Commissioner Blackwell commended the administrative staff for bringing a proposal to the Policy Committee.

**ACTION:** Approve the Policy Regarding Special Funding Requests. Approve funding assistance for the Douglas Byrd High School Marching Band's Washington, DC trip in the amount as indicated in the policy and appropriate the funding from the General Fund Contingency.

**MOTION:** Commissioner Blackwell offered a motion to adopt the policy regarding special funding requests and approve funding assistance for the Douglas Byrd High School marching Band's Washington, DC trip as indicated in the policy. The funds are to be taken from the General Fund Contingency.

**SECOND:** Commissioner Baggett

**DISCUSSION:** Commissioner Baggett stated a lot of time was spent on this matter and the Policy Committee struggled with this decision. The committee and staff wanted to carefully construct a guideline. He feels the guidelines are good.

Commissioner King commended the Policy Committee for dealing with this matter in a timely manner. He hopes schools will participate in local parades as well as out-of-state events.

**VOTE: UNANIMOUS**

**8. County Personnel Committee Report and Recommendation regarding revised Memorandum of Understanding with the County Board of Elections regarding personnel management and administration.**

**BACKGROUND:** In 1994, the Board of Commissioners adopted a Memorandum of Understanding with the Board of Elections regarding personnel management and administration. The Board of Elections is not a "pure" county agency and is subject to certain State controls and statutory provisions. The purpose of the Memorandum is to clarify the application of county personnel policies and procedures to Board of Elections personnel. The State Board of Elections recommends that such Memorandum of Understanding be adopted in each county.

The revised Memorandum of Understanding incorporates minor technical revisions and clarifications and does not make any substantive changes to the 1994 Memorandum of Understanding. In essence, the Memorandum of Understanding provides that Board of Elections personnel will observe the county's policies and procedures concerning general employment rules and regulations and conditions of employment, but that matters relating to the appointment, discipline and removal of Board of Elections personnel will flow through the Board of Elections. The Memorandum of Understanding provides that the county will administer leave policies, position classification, and compensation and benefits for Board of Elections personnel in the same manner as for all other part-time, full-time and/or temporary county employees.

The County Personnel Committee adopted a motion "to recommend adoption of the Memorandum of Understanding as presented by staff to the full Board of Commissioners."

**ACTION:** Approve the revised Memorandum of Understanding with the Board of Elections.

**MOTION:** Commissioner King offered a motion to approve the revised Memorandum of Understanding with the Board of Elections regarding personnel management and administration.

**SECOND:** Commissioner Blackwell

**VOTE:** UNANIMOUS

**9. Consideration of calling a public hearing to consider a proposed Lease and Facility Operating Agreement**

## with Total Recovery Systems International, Incorporated for municipal waste reduction.

**BACKGROUND:** At the Board of Commissioner's direction, management and representatives of Total Recovery Systems International, Inc. ["TRSI"] have negotiated a proposed Lease and Facility Operating Agreement for the Board's consideration. The documents would lease a site at the Ann Street Landfill for TRSI to install its waste reduction facility and would set forth in the Facility Operating Agreement the contractual agreement between the County and TRSI.

Management believes the agreement meets the County's goals of extending the Ann Street Landfill's life by over 40%, protecting against increasing the County's costs of its solid waste operations, and being environmentally beneficial. Management therefore believes that the proposed agreement merits the Board of Commissioners' careful and serious consideration.

TRSI will receive waste, apply a steam-based process to it, reduce its volume substantially, separate out plastic and metal recyclables, and end up with a marketable cellulose product and a small amount of residue.

The central thrust of the agreement is that TRSI's operation should not cause the County's solid waste expenses to rise. TRSI agrees to take 300 tons per day of the County's municipal solid waste ("MSW") and reduce it in volume by at least 86.5% and probably more like over 90%. TRSI will charge the County \$1 per ton. The County will landfill residue that is left over from TRSI's processing, also for \$1 a ton. In addition, TRSI will pay a host fee to the County calculated so that the County's payment to TRSI will equal TRSI's payment to the County for this processing.

The County will continue to landfill the balance of its daily MSW, about 50 to 75 tons on average currently. The County will have the option of having TRSI process that additional MSW, at the lowest rate TRSI is then charging under similar market circumstances.

The agreement also permits TRSI to accept waste at market tipping rates from outside the County. TRSI will pay a commission to the County of 5% for every ton of non-County MSW it processes at a tip fee of \$40 or higher. This commission would first be applied to offset the host fee TRSI pays to ensure that the County has no net cost of TRSI processing the County's 300 tons per day. TRSI's business model assumes processing 600 tons a day of non-County MSW. The agreement requires it, then, to landfill no more residue than 121.5 tons – which equals 13.5% of the County's 300 tons per day plus the 600 tons a day of non-County MSW.

If TRSI is able to realize hoped-for efficiency in MSW volume reduction to over 90%, then it may be able to process, for instance, 1200 tons a day and still not landfill more than 121.5 tons of residue a day. If TRSI processes more than 900 tons a day, the agreement provides that it will process for \$1 one additional ton of County MSW [over 300 tons a day] for every three tons a day over 900 tons a day that it is processing. In the example of 1200 tons a day, for instance, TRSI would process 375 tons a day of County MSW at \$1 a ton [offset, of course, by TRSI's payments to the County]. TRSI will be permitted also to process Medical Waste, but only so long as its process, essentially, turns that waste into a residue which is safe, no longer considered to be Medical Waste, and which is lawful for the landfill to accept.

The agreement assumes 305 operating days a year at the Ann Street landfill. TRSI will try to match its operating schedule as closely as possible to the landfill's. If TRSI requires that the landfill operate for additional periods, then TRSI will reimburse all of the County's resulting equipment or personnel costs. The agreement details how the parties will handle unprocessable waste, which is waste that TRSI's equipment cannot process, and unacceptable waste, which is waste that the landfill may not or cannot accept.

Thus, the design of the agreement contemplates that TRSI will process the bulk of the County's MSW for, essentially, no cost, and that TRSI will pay for that and make any of its profit from processing the non-County MSW. That, in turn, will result in a significant increase in the Ann Street landfill's useful life without additional cost to the County.

Based on TRSI processing 300 tons a day for the County and 600 tons a day of other MSW at market rates, and the County landfilling the remainder of its MSW, we calculate that the life of the landfill will be extended from 16.6 years at present to 24 years. This represents an approximately 45% increase in the landfill's useful life for no additional investment by the County.

The term of the agreement will initially be 10 years. TRSI will have the right to extend the term for two additional five-year extensions. TRSI will be allowed to increase its tip fee to the County after the first 10 year period, but would also increase its payment to the County so that the County's net cost from TRSI's processing remains zero. The agreement provides that TRSI will begin installation of its equipment within 60 days after agreements are signed and will continue installation without delay.

Before commencing construction, TRSI will provide extensive insurance coverage for up to \$5 Million to protect against a wide range of risks. The policy or policies will name the County as a Named Insured and will provide the County 30 days

notice of non-payment or non-renewal and an opportunity to pay the premium to continue the insurance in effect. Within 60 days of signing the agreement, TRSI will provide documentation that it has a binding commitment from a major financing institution for \$15 Million capital financing, or a bank reference from such an institution that TRSI has such a financing commitment from a person or entity of sufficient creditworthiness to be reasonably satisfactory to the County. Management will receive financial statements for TRSI, which is a new company. In addition, therefore, management has advised TRSI that, subject to execution of a customary confidentiality agreement, the County Manager and the County Attorney will review the financial statements of TRSI's parent and of any entity or person providing capital to TRSI.

Once TRSI's facility is ready to receive and process the County's MSW, an up to one year Start-Up Period will begin. During this period, TRSI will work its production level up to be able reliably and consistently to process the County's 300 tons a day. During the first five months, TRSI will be allowed to landfill all its residue and its cellulose product as it brings its equipment on line. After that time, it will not be allowed to landfill its cellulose product.

TRSI will only be allowed to process County MSW during the Start-Up Period. It will not process non-County MSW.

Before moving from the Start-Up Period to the full Contract Period, TRSI will have to meet several benchmarks intended to ensure that it is operating as promised, that it is operating reliably and consistently at operational levels, and that it is operating in an environmentally acceptable manner. In addition, before the end of the Start-Up Period, TRSI will have to provide documentation of contracts for commercial use of its cellulose product.

The County will have to determine that these performance benchmarks are met to its reasonable satisfaction before TRSI can move from the Start-Up Period to the full Contract Period. Also before the end of the Start-Up Period, the County and TRSI will enter into a detailed operating protocol which elaborates on the day to day interaction and coordination of operations between the two parties.

TRSI would have the right to terminate the agreement after the first five years on one year's notice. At the end of the agreement, TRSI will have the right to remove its equipment or, if it does not do so, to have the County buy it for fair market value. If the County does not buy that equipment, TRSI has to remove its facilities at its cost.

The agreement requires TRSI to comply with all applicable laws, regulations, codes, etc., and to operate on a nondiscriminatory basis. TRSI is also required at

all times to conform to good engineering and operating practices, and to maintain safety practices and programs. Additionally, the County will have the right to inspect TRSI's facility and to audit its records to determine compliance with the agreement. TRSI will have the right to assign the agreement without the County's consent to any affiliate in which it is a general partner of a 50% or greater shareholder. Any other assignment will require the County's consent.

The agreement also requires the County, **if allowed by law**, to adopt a flow control ordinance to provide that MSW generated within the County will be delivered to the landfill. As there are substantial constitutional legal issues surrounding flow control ordinances, TRSI has been advised that this will depend on the County Attorney researching and giving an appropriate opinion to the Board of Commissioners as to the lawfulness of such ordinance.

Finally, the County and TRSI recognize that they intend to establish a cooperative and mutually beneficial business relationship. They do not intend to become competitors. The last section of the Facility Operating Agreement states that neither will enter into any contract which interferes with or causes the other party to lose the benefits of the agreement.

Chairman Melvin asked if there was a mileage range for solid waste coming from outside the County?

Mr. Barrett advised there were no limitations at this point. It would not be economical to TRSI to bring solid waste in from far away due to the costs involved.

Chairman Melvin stated he is still concerned with the County accepting trash from all over. However, he does support the public hearing.

Commissioner Baggett stated he is concerned with the quantity of solid waste to be brought into the County. He asked if medical waste would be included in the solid waste to be brought in.

Mr. Barrett advised the County would take medical waste only if it was to be processed to a state where it is no longer considered medical waste and is environmentally acceptable to our landfill. He has not heard TRSI say they would be taking medical waste from outside the County.

Commissioner Baggett asked how we would know what was in sealed containers that come into the County.

Mr. Barrett advised TRSI would rely on the job done by inspectors at the point of origin. TRSI would ban any violations of what is acceptable waste.

Commissioner King asked if anyone knew how long Fayetteville's contract with Sampson County would last. He thought if Fayetteville's solid waste was included, TRSI would not need a lot of solid waste from outside the County.

Mr. Barrett advised he believed Fayetteville's contract with Sampson County would last through the middle of this year.

Mr. Strassenburg noted that TRSI accepting the City of Fayetteville solid waste may adversely affect the County's commercial tipping fee and that may end up affecting Solid Waste Management's funding stream. Any adverse affect on the tipping fee could result in an increase in the annual residential collection fee paid by citizens.

Commissioner Tyson noted TRSI could take care of medical waste. He asked Mr. Strassenburg if there was a need to have the public hearing on February 29<sup>th</sup> rather than our second meeting in March.

Mr. Strassenburg advised Cape Fear Valley Health System has had to make the decision to close its incinerator or make changes to it due to environmental laws. The hospital chose to close it. They now must have a source for their medical waste by the end of June. They would have to find another vendor for it if TRSI is not in a position to begin taking it.

Commissioner Tyson asked if the public hearing is held in March rather than February, will that delay TRSI from being able to take the hospital's medical waste after the end of June?

Mr. Strassenburg advised a delay in the public hearing would make it more difficult. Staff thought a special meeting would be more desirable as the Board would not have other issues before them.

Mr. Bill Cook with TRSI advised they have submitted a proposal to the hospital. The hospital wants someone to take all of their medical waste. TRSI has advised the hospital they did not think they could take their medical waste until October.

Commissioner Baggett stated the County is not going through this process to take care of Cape Fear Valley Hospital's medical waste. He does not feel the Board should be rushed into a hasty decision to accommodate the hospital. He feels the public hearing could be scheduled for a regular Commissioners' meeting.

**ACTION:** Call a public hearing for Monday, March 20, 2000 at 7:00 PM to consider public comment and act upon the proposed Lease and Facility Operating

Agreement between the County and TRSI.

**MOTION:** Commissioner Warren offered a motion schedule a public hearing for Monday, March 20, 2000 at 7:00 PM to consider public comment and act upon a proposed Lease and Facility Operating Agreement between the County and TRSI.

**SECOND:** Commissioner Melvin

**VOTE:** UNANIMOUS

10. Closed Session – Discussion of Litigation.

**MOTION:** Commissioner King offered a motion to go into Closed Session to discuss Litigation.

**SECOND:** Commissioner Baggett

**VOTE:** UNANIMOUS

**MOTION:** Commissioner King offered a motion to come out of Closed Session.

**SECOND:** Commissioner Tyson

**VOTE:** UNANIMOUS

Meeting adjourned at 9:35 PM.

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