

Cumberland County Board of Commissioners
September 16, 2002, 7:00PM
Regular/rezoning Meeting

PRESENT: Chairman Breeden Blackwell
Vice Chairman Talmage Baggett
Commissioner Jeannette Council
Commissioner John Henley
Commissioner Billy R. King
Commissioner J. Lee Warren, Jr.
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Cliff Spiller, Asst. County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Marsha Fogle, Clerk to the Board

ABSENT: Commissioner Kenneth Edge

INVOCATION: Chairman Breeden Blackwell

PLEDGE: Amanda Evans – Cape Fear High School

EX-OFFICIO HIGH SCHOOL STUDENT PARTICIPANT: Christy Reich
Cape Fear High School

Special Recognition: Cumberland County Board of Elections
Hope Mills Dixie Youth Boys Baseball Team – State Champions

Additions to the Agenda: Forward to the Policy Committee and Planning Board/Staff
Consideration of a policy that will allow the replacement of a home that has been
destroyed by fire or other natural cause, when replacing that home would create a non-
conforming use.

MOTION: Commissioner King moved to add the above matter to the Consent
Agenda.
SECOND: Commissioner Baggett
VOTE: UNANIMOUS

1. PUBLIC HEARINGS

Because Case P02-75 has no opposition it will be considered as an uncontested case
and voted on with Case P02-73.

Uncontested Rezoning Cases

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminating,
and in the public interest and that the property within such district is suitable for all uses
permitted by the new classification, the following motion was offered:

**MOTION: Commissioner Baggett moved to follow the recommendation of the
Planning Board on Cases P02-73 (A) and P02-75 (D).**
SECOND: Commissioner Henley
VOTE: UNANIMOUS

- A. Case P02-73. The rezoning of a 9.17-acre portion of a 58.98-acre tract from
PND, PND/CUO and R10 to C(P) or a more restrictive zoning district, at 7157
Raeford Road, owned by King Model Homes Construction Company and A.
Glenn and Margaret Rowell

The Planning Board recommends approval of C(P).

Contested Rezoning Cases

- B. Case P02-46. The rezoning of 14.1-acre portion of a 16.4-acre tract from RR
and CD to R10 or a more restrictive zoning district on the south side of
Raeford Road, east of the County Line, owned by Floyd Construction
Company, Inc.

The Planning Board recommends approval of R10.

SPEAKERS:

1. Paul Williams – Mr. Williams urged the Board to approve the rezoning noting his concern about the county's 1% growth. He said the rezoning will benefit the whole community.
2. Stuart Clark (Attorney) – representing Floyd Construction. Mr. Clark noted this case has been deferred several times in order to try to work out something that everyone could live with. Conditional Use Overlay District has been considered; however, it was decided that would not work. Floyd Construction has agreed to accept the R10 rezoning as recommended by the Planning Board. He noted that Floyd Construction had initially asked for R5 rezoning.
3. Gregory Floyd – Mr. Floyd noted that R10 allows him up to 65 units. He said he only needs 47 to make it work. He said that area of the county is almost a city in itself because of all the growth in the area. He said the trend now is mixed use, i.e., apartments and single family dwellings.
4. Bill Wanovich – concerned that the outcome of this case is predetermined. He said the Lake William Subdivision is opposed to the rezoning. He said there is no benefit to the area for this rezoning to be approved. He said the effect of the rezoning is detrimental to the area, i.e., high crime, additional traffic, drainage problems and devaluation of property. Mr. Wanovich said that to approve this rezoning would be to maximize the economic condition of Floyd Construction at the expense of the other neighborhoods. He noted that Mr. Floyd knew the property was zoned RR when he bought it. He urged the Board to deny the rezoning.
5. James McKnight – concerned that there was very little discussion by the Planning Board in reference to this case. Said a member of the Planning Board said they needed to cram as many homes in this area as possible for tax purposes. Mr. McKnight said the Board needs to stand up for homeowners. Opposed to rezoning.
6. Michael Stone – Law firm of Hatley & Stone - Mr. Stone said the Board should use common sense and reasonableness in determining the zoning. He said a decision on the rezoning should not be based on tax base.

The Chairman closed the Public Hearing portion of this case.

Chairman Blackwell inquired what is allowed in a RR zoning district. Mr. Tom Lloyd noted that there is a vast array of things allowed in an RR district to include manufactured homes.

Commissioner King said he thought the R10 was a little too much and he was leaning toward R15.

Commissioner Baggett noted the change in the area from when it was zoned RR and now is the availability of water and sewer. He inquired of Mr. Floyd if he could accept R15. Mr. Floyd indicated he could accept R15 or RR, but he did not think R15 is legitimate zoning.

MOTION: Commissioner Baggett moved to follow the recommendation of the Planning Board and rezone to R10.

SECOND: Commissioner Warren

DISCUSSION: Commissioner Henley said he did not think that smaller lots meant lower property values. He pointed out that there are some very nice homes built on smaller lots. He inquired of Mr. Floyd the approximate cost of homes he would be building. Mr. Floyd said he was not sure; however, it would not be on the high end. Commissioner Henley inquired if there is a way to get to what Mr. Floyd needs, 47 units, without rezoning to R10. The County Attorney noted that in considering the pending motion, the Board must consider whether the property is appropriate for the density allowed by R10 zoning, and not any expressed intention of the developer at a lesser density. The County Attorney noted the Board could refer this back to the Planning Board to consider

a conditional use overlay district, limiting the number of units to 47. The petitioner indicated he would be willing to accept conditional use overlay district for 47 lots.

SUBSTITUTE

MOTION: Commissioner King moved to send the case back to the Planning Board to consider a conditional use overlay district, with a maximum of 47 units.
SECOND: Commissioner Council
VOTE: UNANIMOUS

- C. Case P02-74. The rezoning of 2.79 acres from A1 to R40A or a more restrictive zoning district on Port Richey Lane, southeast of Fennell Road, owned by James and Patricia Sessoms.

The Planning Board recommends denial of the rezoning.

MOTION: Commissioner Warren moved to follow the recommendation of the Planning Board and deny the rezoning request.
SECOND: Commissioner King
VOTE: UNANIMOUS

- D. Case P02-75. The rezoning of 4.90 acres from C(P) to R10, or a more restrictive zoning district on Auburn Drive, south of Hollis Drive, owned by West Hankins Realty, Inc.

The Planning Board recommends approval to R10.

This case was approved along with 1A.

Conditional Use Overlay:

- E. P02-68. Conditional Use Overlay District and permit to allow an office and inside storage of Antique, Classic and Collectible Automobiles on 5.93 acres in a RR District at 4100 Grandford Road, owned by Michael N. and Sheryl R. Nelson.

The Planning Board recommends approval of the overlay district and the permit, with the following conditions:

- no parking will be allowed within 10 feet of the floodway;
- there will be no outside storage;
- there will be no repair or refurbishing allowed on the site; and
- a Flood Plain Development Permit must be obtained from the County Engineer's Office.

MOTION: Commissioner Baggett offered a motion that the Board finds that this conditional use district overlay application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest and that it be approve.

SECOND: Commissioner King
VOTE: UNANIMOUS

MOTION: Commissioner Baggett moved that the Board finds that this conditional use district overlay permit application, if completed as proposed with the above noted conditions, will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property, will be in harmony with the area in which it is to be located and will be in conformity with the land use plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners, and that it be approved.

SECOND: Commissioner Warren
VOTE: UNANIMOUS

Minimum Housing Hearing:

- F. Case MH 1517-2001- 352 Longhill Road, Fayetteville, NC

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

Property Owner: Nathaniel & Deloise Bethune
Address: 352 Longhill Road, Fayetteville, NC
PIN: 0541059-5552

SYNOPSIS: This property was inspected on November 28, 2001. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on January 15, 2002. No owner or party of interest attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than April 15, 2002. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on September 4, 2002 no corrective action had been made to the structure. The structure is presently vacant and unsecured. 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 human habitation is \$15,000.00. The Assessor for Cumberland County has this structure presently valued at \$2,151.00.

RECOMMENDATION: It is the recommendation of the Planning and Inspection Department that the structure be demolished and the debris removed from the lot.

Speakers: None

MOTION: Commissioner Baggett moved to

Adopt the order and report of the Minimum Housing Inspector as the true facts in this case;

To order the property owner to remove or demolish the dwelling with 60 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; and

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 Henley
VOTE: UNANIMOUS

Other Public Hearings:

G. Public Hearing on the Local Law Enforcement Block Grant for FY2002.

BACKGROUND: The Law Enforcement Block Grant for Fiscal Year 2002 has been approved. The Sheriff's Office will receive \$161,796. The County match will be \$18,644. Before funds can be drawn down from the Department of Justice, a public hearing must be held.

SPEAKERS: None

No action required.

H. Community Development Consolidated Annual Performance and Evaluation Report for the 2001 Program Year.

BACKGROUND: The 2001 Program Year CAPER has been prepared and is available for public review and comment during the period September 6, 2002 – September 120, 2002. The final CAPER is due to HUD on September 28, 2002. The Board must hold a public hearing on the CAPER.

SPEAKERS: None

No action needed.

2. CONSENT AGENDA

MOTION: Commissioner King moved to follow staff recommendations on the items on the Consent Agenda.

SECOND: Commissioner Council

VOTE: UNANIMOUS

- A. Approval of Minutes: September 3, 2002

ACTION: Approve

- B. Approval of Cape Fear Valley Health System FY03 Operating and Capital Budget and Budget Ordinance.

BACKGROUND: On August 28, 2002 the Hospital Board of Trustees approved the Health System's FY03 operating and capital budget and budget Ordinance. Pursuant to the Hospital By-laws Article 6, Section 7(a), the advice and consent of the Board of Commissioners is required as to matters involving the Health System's budget.

ACTION: Approve

- C. Approval of a Resolution of Intent to abandon a public road (Bingham Place) and call for public hearing on October 21, 2002.

BACKGROUND: Rev. Atkinson, minister of Arran Lakes Baptist Church, whose church owns all of the property adjacent to Bingham Place (SR 3051) has requested the Board to abandon Bingham Place. The Department of Transportation and the Fire Marshal have no objection.

ACTION: Approve Resolution.

RESOLUTION OF INTENT TO ABANDON BINGHAM PLACE
AND CALL FOR A PUBLIC HEARING ON THE QUESTION

WHEREAS, a request has been submitted to the Board of Commissioners by the land owners to abandon Bingham Place located in Seventy First Township, Cumberland County; and

WHEREAS, it appears that such public street is not under the control of the NC Department of Transportation, and, that no person would be deprived or reasonable means of ingress and egress to this property by such closing;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Cumberland County, North Carolina, intends to abandon the following public street in accordance with NCGS 153A-241:

Bingham Place which runs east and west between Thornwood Place (SR 3052) and Bingham Drive (SR 114) as shown on a map of Arran Lakes Baptist Church, Plat Book 107, Page 93 in the Cumberland County Registry.

AND BE IT FURTHER RESOLVED, that the said Board calls for and shall hold a public hearing on the question of abandonment of such street on the 21st day of October, 2002 at 7:00 p.m. in the Commissioners' Meeting Room (Room 118), First Floor, New Courthouse, 117 Dick Street, Fayetteville, North Carolina. The Board shall hear all interested persons who appear with respect to whether the abandonment would be detrimental to the public interest or to any individual property rights.

AND BE IT FURTHER DIRECTED that notice of the intent to abandon said street and of the public hearing on such matter be published once a week for three successive weeks before the hearing in a newspaper of general circulation in Cumberland County and that such notice be prominently posted in at least two places along the street during that time.

- D. Approval of an application to the NC Housing Finance Agency (NCHFA) Supportive Housing Development Program for funding of Robin's Meadow Apartments – Phase II.

ACTION: Approve submission of an application for funding to NCHFA for \$400,000 and authorize the County Manager to sign the final application which is due September 27, 2002.

- E. Approval of Change Order #1 for Telecom Engineering Consultants Inc (TEC) to add a video arraignment system to the Cumberland County Detention Center Project.

ACTION: Approve Change Order #1 in the amount of \$178,442 for Telecom Engineering Consultants, Inc. and revise the total contract amount to \$718,442.

- F. Consideration of approval of an option with Crown Castle International for Cellular Tower Site in the Industrial Park.

BACKGROUND: Crown Castle International has offered to purchase a site that it currently leases from the County in the Industrial Park. The option would be for \$500 for a period of 180 days with the option to extend it for an additional 180 days for a further payment of \$500. The purchase price of the site would be \$30,000. The County Engineer advises that the site is .389 of an acre on Technology Drive between Production Drive and Corporation Drive and is surrounded by wetlands. The property is surplus to the needs of the County.

ACTION: Accept the offer, direct staff to publish notice of the offer and invite upset bids. Upon completion of bid process, authorize the Chairman and Clerk to execute necessary option in satisfactory form and substance to the County Attorney. Further, authorize the Chairman to execute and the Clerk to the Board to acknowledge a deed for the site and deliver it at closing.

G. Budget Revisions:

- (1) Library Grants: Amount: \$57,144 to budget a LSTA Internet Infrastructure Improvement Grant which will be used to upgrade dumb terminals and to finish converting the library's operating software to one system (B03-123) Funding Source – LSTA Grant
- (2) Senior Aides: Amount: \$35,687 to reconcile the final federal budget with the county budget (B03-124) Funding Source – Federal
- (3) Soil Conservation District: Amount: \$50 to budget funds received that have not been previously budgeted (B03-115) Funding Source – Miscellaneous Income
- (4) Social Services Other: Amount: \$75,000 to recognize grant revenue from The Duke Endowment for the Neighborhood Guardian Program (B03-113) Funding Source – Duke Endowment Grant
- (5) Mid Carolina Senior Transportation: Total Amount: \$49,571 to budget grant funds from Mid Carolina (\$36,833) local match of \$2,238, and client fees of \$500. Funds will be used to provide transportation for seniors (B03-111) Funding Source – Grant and Fees
- (6) Transportation Other: Amount: \$2,058 to appropriate fund balance for funds received from the Seniors Call to Action Team in the prior fiscal year, but not expended (B03-112) Funding Source – Balance of the CCF Transportation Grant
- (7) Planning and Inspections Department: \$1,855 to reclassify the source of funds transferred to Fund 454 (B03-114) Funding Source – Other
- (8) Mental Health
 - a. Administration – Amount: \$12,500 to appropriate fund balance to budget for a consultant to provide technical assistance on the Mental Health Reform Local Business Planning process (B03-118) Funding Source – Mental Health Fund Balance Appropriated
 - b. Administration – Amount: \$15,750 to appropriate fund balance to budget for a consultant for training, support, analysis and planning to achieve compliance with Federal HIPAA regulations (B03-120) Funding Source – Mental Health Fund Balance Appropriated

- c. Autism – Amount: \$1,500 to appropriate fund balance to budget for increase in janitorial contractor (B03-122) Funding Source – Mental Health Fund Balance Appropriated
- d. Medical Records – Amount: \$12,700 to appropriate fund balance to budget for unexpected increases in operating expenses (B03-121) Funding Source Mental Health Fund Balance
- e. Substance Abuse Periodic: Amount: \$1,545 to reallocate budgeted expenditures from salary adjustment to salaries and fringes to budget for the transfer of an employee from a Work First grant position where funds are ending (B03-119) Funding Source – Reallocation of budgeted expenditures

(10) Sheriff's Office/Federal Forfeiture Justice

- a. Amount: \$10,000 to budget for the NC Governor's Highway Safety Programs using a mix of Grant funds (75%) and local funds provided from the Federal Forfeiture Fund and to approve the NC Governor's Highway Safety Program Local Governmental Resolution authorizing the local matching funds (B03-117&117A) Funding Source: State Grants and Other
- b. Amount: \$186,460 to establish a new organization to account for a FY2002 Law Enforcement Block Grant of \$167,796 and matching local funds of \$18,664 (B02-139 & 139A) Funding Source – Federal Grant and Reallocation of budgeted Expenditures

(11) Community Development – Various – Revisions in the total amount of \$1,056,828 to rebudget unexpended FY2002 grant funds (B03-126-133) Funding Source – Federal

H. Consideration of a policy that will allow the replacement of a home that has been destroyed by fire or other natural cause, when replacing that home would create a non-conforming use.

BACKGROUND: Commissioner Warren noted a specific problem about a family whose home has burned and is finding it difficult to replace it because the area is zoned A1 and the lot they own is only 1.2 acres. Note: Their home was there prior to the initial zoning.

ACTION: Approve sending it to the Policy Committee, Planning Board and Planning Staff.

H. Statement by Commissioner Henley regarding an editorial that ran in the Fayetteville Observer on Saturday regarding economic development.

Commissioner Henley noted an article by Tony Chavonne in the Fayetteville Observer praising the county for its action to join with FAEDC, City of Fayetteville, PWC, the Chamber of Commerce and other economic agencies in the county to promote economic development. On the same day an editorial in the paper alluded to the fact that the Board of Commissioners discussed and decided the issue in closed session. Commissioner Henley noted the Board met jointly with the Fayetteville City Council on August 26, 2002 to hear and discuss the Economic Plan presented to them by Fayetteville Futures. The editorial suggested the Board did the homework in private, or did not know enough about the plan to ask questions at the meeting at which it was adopted. Commissioner Henley suggested there was a third option, that being, the Board of Commissioners knew what they were doing, as they had done their homework on the issue. Commissioner Henley said the editorial was an insult to the Board of Commissioners. In addition there was an Op Ed piece in the paper written by Tim White concerning the "Good News Bureau" and the importance of accurate reporting in the paper. Commissioner Henley suggested it start with the Fayetteville Observer.

REGULAR AGENDA

3. Nominations to Boards/Committees

A. Juvenile Crime Prevention Council (1 vacancy)

BACKGROUND: Carol Hessenflow is completing her second term. Henry Berry is recommended to fill the vacancy.

Nominee: Henry Berry

B. Minimum Housing Appeals Board (2 vacancies)

BACKGROUND: The following vacancies will occur October 31, 2002:

Simpson Burton – eligible for reappointment
Chester Oehme, Jr. – not eligible for reappointment. (Mary Raynor, currently serving as an alternate member is recommended to fill the vacancy).

Nominees: Simpson Burton - reappointment
Mary Raynor

C. Workforce Development Board (1 vacancy)

BACKGROUND: Cathy Traylor resigned from the Board. She served as a private sector representative.

Nominee: Wendall Troy

4. Appointments to Boards/Committees

MOTION: Commissioner Council moved to appoint the nominees in 4A,4B&4C.

SECOND: Commissioner Warren

VOTE: UNANIMOUS

A. Adult Care Home Community Advisory Committee (3 vacancies)

Nominees: Jacqueline Fowler
Qwanderlyn Goodson
Dianne L. Noel

B. Animal Control Board (1 vacancy)

Nominee: City of Fayetteville 2nd resident position: Linda Hardy Lewis

C. Workforce Development Board (1 vacancy)

Nominee: Patricia Tyson – Community Based Organization representative

5. Consideration of a request from the Chamber of Commerce Forum Committee to use the Board of Commissioners Chambers to conduct a "Candidates Forum" on Tuesday, October 22, 2002 from 7:00 to 9:00PM.

MOTION: Commissioner Warren moved to approve.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

6. Consideration of approval of an Interlocal Agreement between Eastover Sanitary District, City of Fayetteville, PWC, Newport Generation and Cumberland County.

BACKGROUND: This agreement addresses the issues of potable water, process water, sanitary sewer, tax considerations, annexation and Operations and Maintenance of the utility infrastructure. ESD approved the agreement on August 20, 2002; PWC approved on August 28, 2002. City Council approved on September 9, 2002.

MOTION: Commissioner Baggett moved to approve.

SECOND: Commissioner Warren

DISCUSSION: Commissioner King inquired as to the county's role with this project. The County Attorney noted the role of the county is mostly that of land use planning and rezoning. He noted the importance of holding the density to "rural levels" in the Eastover area to protect the rural character of Eastover.

VOTE: UNANIMOUS

7. Consideration of Finance Committee Report & Recommendation

A. Revised Fee Schedule for Inspection and Zoning Permits

BACKGROUND: Cumberland County's fees are low compared to other counties, the City of Fayetteville and the Town of Hope Mills. The zoning fees were adjusted last in 1988, and the subdivision fees were adjusted approximately 23 years ago. Some of the building permit fees were revised in July, 1993. Representatives from the Homebuilders Association and Land Surveyors indicate they have no problem with the fee increase.

ACTION: Approved the Revised Fee Schedule as approved by the Finance Committee on September 5, 2002, to become effective January 1, 2003.

A copy of the revised fee schedule is on file in the Planning and Inspections Department.

MOTION: Commissioner Henley moved to approve.

SECOND: Commissioner Council

VOTE: UNANIMOUS

MEETING ADJOURNED: 9:05PM

Clerk to the Board