

**CUMBERLAND COUNTY BOARD OF COMMISSIONERS
COURTHOUSE – ROOM 118
AUGUST 18, 2003 – 7:00 PM
REGULAR MEETING**

Present: Chairman Talmage Baggett
Vice Chairman Jeannette Council
Commissioner J. Breeden Blackwell
Commissioner Kenneth Edge
Commissioner John Henley, Jr.
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Cliff Spiller, Assistant County Manager
Grainger Barrett, County Attorney
Mitzi Champion, Public Information Director
Marsha Fogle, Clerk to the Board
Ann Hymes, Deputy Clerk to the Board

INVOCATION - Commissioner Billy King

PLEDGE OF ALLEGIANCE – Krista Hymes, 6th Grade, Pine Forest Middle School

1. Public Hearings

Uncontested Rezoning Cases

Chairman Baggett asked the Board to allow him to abstain from voting on Item 1.F.

MOTION: Commissioner Blackwell moved to allow Chairman Baggett to abstain on Item 1.F.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminatory, and in the public interest, the following motion was offered:

MOTION: Commissioner King moved to follow the Planning Board recommendations on Cases A, B, C, D, E, G, H, and I.

SECOND: Commissioner Council

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved to follow the Planning Board recommendations on Case F.

SECOND: Commissioner Edge

VOTE: APPROVE: Commissioner Henley, Edge, Council, Blackwell, Melvin and King

ABSTAIN: Commissioner Baggett

- A. Case P03-30. The rezoning of 33.46 acres from A1 to R40A, or a more restrictive zoning district, at 676 Flyers Drive, owned by David C. and Sue B. Raynor.

The Planning Board recommends approval of R40A.

- B. Case P03-50. The rezoning of 15.93 acres from C3 and R5A to R5A and C3, or a more restrictive zoning district, on the north side of Cliffdale Road, west of South Reilly Road, owned by Sharlene R. Williams.

The Planning Board recommends approval of R5A and C3.

- C. Case P03-54. The rezoning of 2.0 acres from R10 to R5A, or a more restrictive zoning district, at 3970 Gillespie Street, owned by Janet Snead Dees.

The Planning Board recommends approval of R5A.

- D. Case P03-55. The rezoning of 65.0 acres from M(P) to R10, or a more restrictive zoning district, on the north side of Camden Road, northeast of Crystal Springs Road, owned by Joe B. Raynor, Jr.

The Planning Board recommends approval of R10.

- E. Case P03-57. The rezoning of .73 acres from RR to R10, or a more restrictive zoning district, at 1466 Ferndell Drive, owned by Wayne H. Treanor.

The Planning Board recommends approval of R10.

- F. Case P03-58. The rezoning of a .50-acre portion of a 1.29-acre tract from A1 to C3, or to a more restrictive zoning district, at 6660 Goldsboro Road, owned by Floyd J. and Nettie Currie.

The Planning Board recommends approval of C3.

- G. Case P03-60. The rezoning of 2.24 acres from A1 to R40A, or a more restrictive zoning district, at 7615 Rufus Johnson Road, owned by Sherry A. Lee.

The Planning Board recommends approval of R40A.

- H. Case P03-61. The rezoning of .34 acres from R10 to C1, or a more restrictive zoning district, at 3827 Boone Trail, owned by Dora Holland Howard.

The Planning Board recommends approval of C1.

- I. Case P03-62. The rezoning of 173.73 acres from RR and CD to R10, or a more restrictive zoning district, on the west side of Haskell Drive, north of Black Bridge Road, owned by NPS Associates.

The Planning Board recommends approval of R10.

Contested Rezoning Cases

Commissioner Baggett asked to be abstained from voting on Item J. He further asked Vice Chairman Council to preside over this item.

MOTION: Commissioner Blackwell made a motion to allow Chairman Baggett to abstain from voting on Item J.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- J. Case P03-47. The rezoning of 1.44 acres from M(P) to RR, or a more restrictive zoning district, at 1577 and 1593 River Road, owned by Affordable Portables of Fayetteville, Inc.

The Planning Board recommends denial of the rezoning.

Speakers:

Josey M. Watson appeared before the Board in favor of the rezoning. She said her father purchased property there in 1949 and many family members reside in the area. She submitted a petition signed by over 100 residents who live in the area.

Cornell Monroe expressed his feelings toward rezoning the district. He noted that if Wayne Williams had applied to rezoning prior to setting up his business there, he, Mr. Monroe, and others would have opposed it. He asked that the property be rezoned to RR.

Swendell Anderson also owns property in the area. He supports the rezoning.

Reverend Ander L. Wright expressed concern about the presence of bacteria in the water.

Wayne Williams, Owner of Affordable Portables of Fayetteville, appeared before the Board. He said he purchased the first land parcel in June 1998 and a second parcel in November 1999. He began the business operation in July 1998. The date of Mr. Monroe’s building permit was January 13, 2000. He said he gave PWC a 10-foot easement along the railroad tracks to install utilities for Mr. Monroe. Mr. Williams said that since March 2003 his property has been inspected nine times by the Health Department and N.C. Natural Resources. The only violation they had was in March 2002 and that was from a septic tank malfunction and it has been corrected. Mr. Monroe hired an Environmental Specialist to inspect his property and the specialist did not find any problems that could be a health hazard. The specialist recommended a berm be installed to insure runoff water could not get into a ditch and that has been done. Mr. Williams offered to purchase Mr. Monroe’s house, but Mr. Monroe indicated he did not want to sell. He asked the Board to consider allowing the present zoning to remain.

The Board allowed rebuttal at this time.

Josey Watson reaffirmed her position to the Board.

Commissioner Henley asked Ms. Watson if she was willing to buy Mr. Williams’ property. She replied not for \$75,000 but if Mr. Williams made a reasonable offer she would sell the property.

Commissioner King remarked that he had a problem with someone zoning someone else’s property.

Commissioner Henley inquired that if the property was rezoned back to RR, would Mr. Williams still be allowed to operate his business there. County Attorney, Grainger Barrett replied that he would but would not be able to expand the business, or replace it in the event of a casualty loss of 50% or more. It would be a non-conforming use.

MOTION: Commissioner Blackwell moved to follow the Planning Board and staff’s recommendation to deny the rezoning request.
SECOND: Commissioner Melvin
VOTE: Henley, Edge, Council, Blackwell, Melvin, King
ABSTAINED:Commissioner Baggett

- K. Case P03-52. The rezoning of 1.40 acres from A1 to R40, or a more restrictive zoning district, at 4337 Butler Nursery Road, owned by Freddie J. McLean.

The Planning Board recommends denial of the rezoning.

There was no one present in favor of rezoning the above.

MOTION: Commissioner Blackwell moved to follow the Planning Board and staff’s recommendation to deny the rezoning request.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

- L. Case P03-53. The rezoning of 37.95 acres from RR to R10, or a more restrictive zoning district, on the south side of Camden Road, west of Mill Creek Road, owned by Etta Cameron Ruff.

The Planning Board recommends approval of R10.

Speakers:

Jim Kizer, Engineer, spoke on behalf of the developer. He said the area consists of 38 acres in Cumberland County and 16 acres in Hoke County. It would cost approximately \$470,000 to extend water and sewer under R10. The area would be improved by bringing in water and sewer.

Jim Cameron said he has been a resident in the area for 53 years and is in favor of the rezoning.

Graham O. Edge spoke in opposition of the rezoning. He expressed ecological concerns regarding the water system.

Louis Dean, property owner in the area, said he was opposed to anything that would pump waste water into Lake Upchurch.

Les Munson stated he was not in favor of the rezoning.

Paulette Munson stated she opposed the rezoning.

Harvey Turner stated his biggest concern was having clean water. He said he was afraid that if more houses were built, the runoff would drain into Lake Upchurch.

Gary Mulrooney expressed concerns regarding traffic on both sides of Rockfish Creek. He believes that increased amount of cars would be hazardous to the area. Road safety is his main concern.

Upon finding the requests to be reasonable, neither arbitrary or unduly discriminatory, and in the public interest, the following motion was offered:

MOTION: Commissioner Melvin moved to rezone the district to R15.

SECOND: Commissioner King

DISCUSSION: Commissioner Henley stated he was opposed to rezoning the district to R15. He feels it is a missed opportunity to take water and sewer out into the county. Additional discussion continued.

SUBSTITUTE MOTION: Commissioner Council moved to follow the recommendation of the Planning Board and staff and approve R10.

SECOND: Commissioner Edge

VOTE: APPROVE: Commissioner Henley, Edge, Council

OPPOSED: Commissioner Baggett, Blackwell, Melvin, and King

A vote was taken on the motion to rezone the district to R15.

VOTE: APPROVE: Commissioner Henley, Baggett, Blackwell, Melvin and King

OPPOSED: Commissioner Edge and Council

- M. Case P03-59. The rezoning of a 23.46 acre portion of a 26.33-acre tract from A1 to R10, or a more restrictive zoning district, on the north side of Tom Starling Road, east of Backbay Road, owned by Joseph Strickland.

The Planning Board recommends approval of R15 Residential District for the portion not within the 100-yard flood zone and CD for that portion within the 100-year flood zone.

Speakers:

Joe Strickland, petitioner, spoke in favor of rezoning the area to R10 without the Conservancy District. The petitioner said he could live with R15 but prefers R10. He would be building stick built homes. There is water and sewer in the area.

Fran Primeaux provided a petition with 100 signatures requesting rezoning the area to R15.

Pat Lahey stated she supported rezoning the area to R15.

Janet Carter said she was in opposition to R10 and in favor of R15 if it had to be rezoned. She explained that her land was under the N.C. Department of Forestry Stuardship Land Program and she wanted to protect her property.

Upon finding the request to be reasonable, neither arbitrary or unduly discriminatory, and in the public interest, the following motion was offered:

MOTION: Commissioner King moved to approve R15 Residential District for the portion not within the 100-year flood zone and CD for that portion within the 100-year flood.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

2. Consent Items

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

A. Approval of minutes for the August 4, 2003 regular meeting.

ACTION: Approve

B. Approval of Contracts for the County Manager, Finance Director, County Attorney and Clerk to the Board.

C. Budget Revisions:

ACTION: Approve.

(1) Averagesboro Battlefield

Revision in the amount of \$33,154 to re-budget NCDOT Enhancement Grant funds (\$26,523) and matching funds previously received (\$6,631). (B04-036) **Funding Source – State and General Fund Appropriated Fund Balance**

(2) Rural Operating Assistance Program

Revision in the amount of \$16,456 to reallocate budgeted expenditures. (B04-011) **Funding Source – Reallocation of Budgeted Expenditures**

(3) Sheriff Training Facility/Federal Forfeiture-Justice

Revisions in the total amount of \$2,180,000 to transfer funds from Federal Forfeitures to establish the preliminary budget for the Sheriff's Training Facility Capital Project. (B04-042 and B04-042A) **Funding Source – Federal Forfeiture Appropriated Fund Balance**

- (4) Fire Districts
 - a. Westarea Fire District - Revision in the amount of \$200 to increase expenditures for unanticipated refunds to taxpayers. (B04-043) **Funding Source – Fire District Tax**
 - b. Vander Fire District – Revision in the amount of \$200 to increase expenditures for unanticipated refunds to taxpayers. (B04-44) **Fund Source – Fire District Tax**
- (5) Community Development
 - a. Public Facilities – Revision in the amount of \$1,216,000 to re-budget FY2003 grant funds (\$1,097,714) and fund balance of \$118,286. (B04-040) **Funding Source – Federal Grants and Community Development Fund Balance**
 - b. HOME Administration – Revision in the amount of \$80,000 to re-budget FY2003 grant funds. (B04-041) **Funding Source – Federal Grants**
 - c. Economic Development – Revision in the amount of \$150,000 to re-budget FY2003 grant funds. (B04-039) **Funding Source – Federal Grants**
- (6) Register of Deeds/Automation

Revisions in the net amount of \$102,786 to increase revenues for additional fees expected to be collected and to cover projected shortfall in expense lines. (B04-048 and B04-048A) **Funding Source – Register of Deeds Fees**
- (7) Education - FTCC

Revision in the amount of \$1,206,923 to appropriated fund balance to re-budget unexpended boiler/chiller funds for the Horace Sisk building (\$706,923) and to reallocate unexpended boiler/chiller funds from Cumberland Hall (\$500,000) to the Horace Sisk project. (B04-049) **Funding Source – Fund Balance Appropriated**
- (8) Planning & Inspections

Revision in the amount of \$30,000 to budget a Disaster Mitigation Planning Grant of \$22,500 and to appropriate fund balance of \$7,500 for the required match. (B04-050) **Funding Source – Federal and Fund Balance Appropriated**
- (9) Civic Center

Revision in the amount of \$7,305 to appropriate fund balance to fund final payment on the Sigma Construction settlement. (B04-051) **Funding Source – Civic Center Fund Balance Appropriated**

Items of Business

3. Consideration of Real Estate Offer from Baptist Union Missionary Baptist Church.

BACKGROUND: Baptist Union Missionary Baptist Church submitted an offer to buy from the County ten acres of the 169 acre Healy tract on Sand Hill Road for \$6,100 per acre, which is the County's cost in the property. The Church proposes to purchase an additional 25 foot frontage on Sand Hill Road, with the bulk of the 10 acres lying largely behind the Church's current tract.

ACTION: Consider whether to declare the ten acres surplus to the needs of the County and to accept the Church's offer.

MOTION: Commissioner King moved to accept Baptist Union Missionary Baptist Church's offer to buy ten acres surplus land from the county for \$6,100 per acre. The church would also pay for the required survey and the cost of publishing legal notice.

SECOND: Commissioner Council

VOTE: UNANIMOUS

4. Consideration of County Policy Committee Report and Recommendation:

A. Scheduling of Special Recognition, Functions and Events

ACTION: Approve the recommendation of the Policy Committee requesting agencies and departments to schedule special recognition, functions and events during the hours of 8:00 am to 9:00 am, 12:00 noon to 2:00 pm, and 4:00 pm to 5:00 pm.

B. Register of Deeds and Sheriff's Benefits

ACTION: Approve the recommendation of the Policy Committee that the Register of Deeds and the Sheriff may take advantage of the benefits package customarily and from time to time offered to county employees, which includes the health plan, annual leave and sick leave. They would not submit time sheets but would submit "pink sheets" to Finance to account for annual and sick leave used. Alternately, the Register of Deeds and the Sheriff might choose not to take advantage of annual and sick leave, and to receive their annual salaries without submitting annual and sick leave forms.

MOTION: Commissioner Council moved to approve Item 4.A and Item 4.B.

SECOND: Commissioner King

VOTE: UNANIMOUS

5. Nominations to Boards and Committees

A. Civic Center Commission (1 Vacancy)

BACKGROUND: Mr. George Breece has resigned his position on the Civic Center Board. A replacement is needed to complete his term which expires January 1, 2004.

Nominees: Ken Lancaster
Jim Crayton

B. Mid-Carolina Aging Advisory Committee (1 Vacancy)

BACKGROUND: The Veterans Hospital Representative position on the Mid-Carolina Aging Advisory Committee is vacant. A replacement is needed to fill this vacancy.

Nominee: Nina Davis

6. Appointments to Boards and Committees

Commissioner Council withdrew the name Victoria Bartch from Item 6.B.

MOTION: Commissioner Henley moved to appoint the nominees in 6.A, 6.B, 6.C, 6.D, 6.E, 6.F and 6.G.

SECOND: Commissioner Council

VOTE: UNANIMOUS

A. Adult Care Home Community Advisory Council (4 Vacancies)

Nominees: Lela Clark – Reappointment

Dr. Claudette Tompkins – Reappointment
Lloyd C. Brisson – Reappointment
Jacqueline Fowler - Reappointment

B. Animal Control Board (1 Vacancy)

Nominees: Paula Thomason

C. Cape Fear Valley Health System Board of Trustees (2 Vacancies)

Nominees: Donald W. LaHuffman
Alice Stephenson

D. Cumberland County Industrial Facilities and Pollution Control Financing Authority (4 Vacancies)

Nominees: James L. Fleming – Reappointment
Robert F. McNeill – Reappointment
H. B. Smith, Jr. – Reappointment
Robert L. White - Reappointment

E. Cumberland County Juvenile Crime Prevention Council (6 Vacancies)

Nominees: Anita Hill – Reappointment
Monika Simmons – Reappointment
Patrick Hurley
John Godbolt
Ron Snyder
Maria Molera

F. Criminal Justice Partnership Advisory Board (6 Vacancies)

Nominees: Talmage Baggett – Reappointment
Capt. Bob Fisher – Reappointment
Carrie M. Heffney – Reappointment
Beth Keever – Reappointment
Gregory Weeks – Reappointment
Kirk Nance

G. Senior Citizens Advisory Board (1 Vacancy)

Nominee: Billy Manning

7. Closed Session: A. Litigation Matter – *National Association for the Mentally Ill v. Cumberland County* – Pursuant to NCGS 143.318.11(a)(3).

James Martin, County Manager, requested that an additional item be added to the Closed Session agenda reference an attorney client matter.

MOTION: Commissioner Blackwell moved to go into Closed Session for the above noted matters.

SECOND: Commissioner Council

VOTE: UNANIMOUS

MOTION: Commissioner Council moved to go back into Open Session.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

MOTION: Commissioner King moved to adjourn (10:25 pm).

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

MEETING ADJOURNED: 10:25 P.M.

Deputy Clerk to the Board