

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AUGUST 16, 2004, 7:00PM
REGULAR/REZONING MEETING

PRESENT: Jeannette M. Council, Chair
John T. Henley, Jr., Vice Chair
Commissioner Talmage S. Baggett
Commissioner J. Breeden Blackwell
Commissioner Kenneth S. Edge
Commissioner Billy R. King
Commissioner Edward G. Melvin
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager
Cliff Spiller, Asst. County Manager
Grainger Barrett, County Attorney
Tom Lloyd – Asst. Planning/Inspections Director
Marsha Fogle, Clerk

INVOCATION - Commissioner Talmage Baggett

PLEDGE OF ALLEGIANCE – Maryanna Baggett

RECOGNITION OF OUTGOING BOARD MEMBERS:

Wilson Lacy, ABC Board
Benner Jones – Cumberland County Mental Health Authority
Dr. Tryon D. Lancaster – Cumberland County Mental Health Authority

RECOGNITION OF CUMBERLAND COUNTY RETIRED EMPLOYEES:

Allie Wiggins – Cumberland County Mental Health Authority

Adjustments to the Agenda:

Add: Closed Session: Economic Development Matter – NCGS 143-318.11(a)(4)
Attorney Client Matter – NCGS 143-318.11(a)(3)

Delete: Item 3E – Amendment of Fire Protection Contract with Stoney Point Volunteer Fire Department

Defer to September 20: Item 2A – Road Closing – Shenandoah Drive Extension

MOTION: Commissioner Blackwell moved to approve the adjustments.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

1. Presentation of the 250th Anniversary DVD by Moonlight Communications - Jan Johnson and Pat Wright.

Jan Johnson and Pat Wright presented each commissioner and the county manager a DVD of the 250th Anniversary Celebration. The Board gave a plaque to Moonlight Communications in commemoration of the Celebration. The Board viewed a 10 minute DVD of the celebration.

2. Public Hearings

Proposed Road Closings

- A. Consideration of Resolution of Intent to Close a Portion of the Proposed Shenandoah Drive Extension.

This item deferred to September 20 meeting.

- B. Consideration of Resolution of Intent to Close Prospect Drive.

BACKGROUND: Property owners adjacent to both sides of Prospect Drive have petitioned that the portion of Prospect Drive located on the western margin of Brushy Hill Road be closed.

SPEAKERS: No speakers

ACTION: Adopt Resolution

MOTION: Commissioner Blackwell moved to adopt the Resolution closing Prospect Drive.

SECOND: Commissioner King

VOTE: UNANIMOUS

RESOLUTION
CLOSING OF PROSPECT DRIVE

WHEREAS, a petition has been submitted to the Cumberland County Board of Commissioners (the "Board") by an adjoining landowner to closed Prospect Drive in Cumberland County; and

WHEREAS, following proper notice, the Board held a public hearing on the question of the closing of such street on the 16th day of August, 2004 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, following the public hearing the said Board found and determined that such public street is not under the control of the NC Department of Transportation, that no person would be deprived of reasonable means of ingress and egress to his property by such closing, but that the reservation of certain easements would be appropriate and desirable, and that it is therefore not contrary to the public interest to close such street, subject to the reservation of the easements described below.

NOW, THEREFORE, the Cumberland County Board of Commissioners hereby RESOLVES, pursuant to authority granted by NCGS 153A-241, that the public street more particularly described below be, and it is hereby, closed, subject, however to the continued dedication and preservation of an easement therein for existing and future utilities, and of an easement therein for public safety vehicle access:

"The portion of Prospect Drive located between the western margin of Brushy Hill Road and the eastern margin of Parcels 9484-95-5842 and 9484-95-5748 as recorded in Plat Book 108, Page 7 in the Cumberland County Registry", and

The Board further RESOLVES that a certified copy of this Resolution be recorded in the Cumberland County Registry.

Uncontested Cases

Upon finding the rezoning requests to be reasonable, neither arbitrary nor unduly discriminatory and in the public interest, the following motion was offered:

MOTION: Commissioner Edge moved to follow the recommendation of the Planning Board on the following rezoning cases: P04-41, P04-42, P04-45, P04-48, P04-50, P04-51, P04-47, P04-49.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

Rezoning

C. Case P04-41. The rezoning of a 6.18 acre portion of a 39.90 acre tract from A1 to C(P) or to a more restrictive zoning district, on the south side of Ramsey Street, west of Giles Road, submitted by George Lott.

The Planning Board recommends approval of C(P).

D. Case P04-42. The rezoning of two parcels totaling 2.84 acres from R6A to C(P), or to a more restrictive zoning district, at 4936 Cumberland Road, owned by Timothy R. Holzer.

The Planning Board recommends approval of C(P).

E. Case P04-45. The rezoning of .48 acres from R10 to C3, or a more restrictive zoning district, at 4452 Cumberland Road, owned by Samuel Henderson.

ACTION: The Planning Board recommends approval of C3.

- F. Case P04-48. The rezoning of 3.25 acres from A1 and A1/CUO to R40A, or a more restrictive zoning district, at 6849 Roslin Farm Road, owned by Thomas R. McMillan.

ACTION: The Planning Board recommends approval of R40A.

- G. Case P04-50. The rezoning of three tracts totaling 10.298 acres from RR, RR/CUO, R10/CUO and PND/CUO to R6, or a more restrictive zoning district, south of Morganton Road, west of McFayden Drive, submitted by James M. Kizer.

ACTION: The Planning Board recommends approval of R6.

- H. Case P04-51. The rezoning of two tracts totaling 44.35 acres from RR to R10, or a more restrictive zoning district, south of Clinton Road, north of Locks Creek Church Road, owned by Neill P. and Deanna R. Guy, III.

ACTION: The Planning Board recommends approval of R10.

Conditional Use Overlay

- I. Case P04-46. A Conditional Use Overlay District and Permit to allow a sand and gravel mine on 187.5 acres in an A1 District at 4536 Game Road, submitted by Warren Baker.

ACTION: The Planning Board recommends approval with the following added conditions:

- Hours of operation – sunrise to sunset, Monday – Friday and 6:00AM – 5:00PM on Saturday;
- Applicant shall keep an updated copy of his state permit and conditions on record with the County Planning/Inspections Department;
- Applicant shall provide to the Planning/Inspections Department, prior to application for a zoning permit, documentation from NCDOT that the public thoroughfare to which the operation has access has sufficient load carrying capacity to support the traffic generated by the operation, or that load limits are acceptable;
- The number of employees allowed is 15;
- Permits are to be obtained for signage; and
- A vegetative buffer in accordance with the site plan be provided and maintained on the site, existing vegetation or stabilized, vegetated earthen berms will serve a buffers and to prevent soil erosion shall be maintained between the operation and adjacent residences and public thoroughfares to screen the operation from the public.

No Speakers

MOTION: Commissioner Baggett moved 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 approved.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

MOTION: Commissioner Baggett moved that the Board of Commissioners finds that this conditional use district overlay permit application, if completed as proposed, and with the above noted added 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, 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 Blackwell

VOTE: UNANIMOUS

The Packet Information from the Planning Board meeting will become a part of the official record.

Contested Cases

- J. Case P04-34. The rezoning of 10.0 acres from A1 to R40, or a more restrictive zoning district, east of Stewart Road, south of Sambo Jackson Road, owned by William C. Vann.

The Planning Board recommends approval of R40.

SPEAKERS:

Cletus Vann – Mr. Vann said the property would not be farmed. The Vann family would like to sell it so it could be made into a nice neighborhood.

Pat Godwin – Read from a letter, authored by Mrs. Catherine Glover, opposing the rezoning. Ms. Glover said when her family acquired the property next to the Vann property they assumed it would always remain agricultural in use. She opposes the rezoning because she said it would negatively impact the kind of home environment that has been established. Ms. Godwin also noted her opposition to the rezoning. She expressed concern that the land is too wet for development. She also noted there is no water/sewer system except for wells and septic tanks.

Cletus Vann, in rebuttal, said the soil has been tested and the land will perk.

MOTION: Commissioner Baggett moved to approve the rezoning to R40 as recommended by the Planning Board.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- K. Case P04-44. The rezoning of 9.85 acres from A1 to RR, or a more restrictive zoning district, on the north side of Goldsboro Road, west of Bud Geddie Road, submitted by Jana L. Berg, Attorney.

The petitioner withdrew the case.

- L. Case P04-47. The rezoning of 29.54 acres from RR to R10, or a more restrictive zoning district, north of Hummingbird Place, west of Bent Grass Drive, owned by Gene F. Williford, Sr.

The Planning Board recommends approval of R10.

This case was approved as an uncontested case.

- M. Case P04-49. The rezoning of 32.87 acres from M(P) to R5A, or a more restrictive zoning district, north of Middle River Loop, west of River Road, submitted by John Koenig.

The Planning Board recommends approval of R5A.

This case was approved as an uncontested case.

- N. Case P04-52. The rezoning of 1.02 acres from RR to C1, or a more restrictive zoning district, at 6576 Highway 301 South, submitted by Younger S. Wood.

The Planning Board recommends denial of C1.

SPEAKERS:

Willy Chason – supports the rezoning. The area needs another convenience store on this side of the road so traffic won't have to cross over.

Younger Wood – petitioner. Has run a convenience store for a long time. He purchased the property from a bank and was not aware it was not zoned properly for a commercial use. He has remodeled the structures and cleaned up the property. He said the previous use was a commercial use. He noted the previous owners of the property filed bankruptcy. He said he has put a lot of money into this project (\$120,000) and would have to file bankruptcy if he is not allowed to carry out his plan. He is planning to open up a convenience store and later a mom and pop restaurant.

Cherry Wood – petitioner. She and her husband want to own their own business. She said the property has always been used as commercial.

Lillian Maynor – member of Union Oak AME Zion Church. Opposed to ABC license for the store. The church is adjacent to the property and selling alcohol would not foster a positive environment.

Walter McPherson – Secretary – Union Oak AME Zion Church. Opposed to bar/tavern adjacent to the church.

Younger Wood in rebuttal. Mr. Wood said he as no intention of opening a bar or tavern. He said the previous commercial business had an ABC license. Mr. Wood said he would even be willing to close on Sunday or not sell alcohol on Sundays.

In response to a question from Commissioner Melvin, Mr. Wood said he would not agree to not selling alcoholic beverages.

Commissioner Melvin noted that Mr. Wood had told him earlier he would consider not selling alcohol.

Mrs. Wood said they would need to get their ABC license to make it work.

Church members said the previous owner did not have an ABC license.

MOTION: Commissioner Baggett moved to refer this case back to the Planning Board to consider Conditional Use District Overlay where both parties have input on the conditions.

SECOND: Commissioner Melvin

VOTE: FAVOR: Commissioners Baggett, Melvin, Henley, King, Blackwell

OPPOSED: Commissioners Edge and Council

Other Public Hearings

- O. Consideration of Approval of Bond Order Authorizing General Obligation School Bonds, Series 2004, for Classroom Additions through the County's Two-Thirds Net Debt Reduction Capacity.

BACKGROUND: The Board called this public hearing to consider a bond order authorizing issuance of general obligation bonds to fund classroom additions at six elementary schools. The Board of Education deems the additions necessary because of unanticipated growth in the school populations and state-mandated reduced class sizes. The Board of Education asks that the County issue the bonds under the authority given to local governments to issue general obligation bonds without a referendum in an amount up to two thirds of the reduction in the County's outstanding general obligation debt in the preceding fiscal year. The County's general obligation debt reduction in FY04 was \$7,615,000, so the County's two-thirds net debt authorization is \$5,076,000.

SPEAKERS: None

ACTION: Approve the Bond Order and the Resolution calling for notice of publication of the Bond Order as adopted and authorize the Finance Officer to proceed with the financing.

MOTION: Commissioner Melvin moved to approve the Bond Order and the Resolution calling for publication of the Bond Order.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

**RESOLUTION CALLING FOR PUBLICATION OF THE BOND ORDER
AS ADOPTED AND OTHER MATTERS**

WHEREAS, the Board of Commissioners of Cumberland County has today adopted a Bond Order entitled: "BOND ORDER AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION SCHOOL BONDS OF CUMBERLAND COUNTY IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$5,076,000 FOR THE PURPOSE OF FINANCING, IN PART, THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SCHOOL FACILITIES IN CUMBERLAND COUNTY; and

WHEREAS, NCGS 159-58 provides for publication of the Bond Order as adopted;

NOW, THEREFORE, the Board of Commissioners of Cumberland County, meeting in regular session at Fayetteville, North Carolina, on August 16, 2004, does the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY:

(1) The Clerk to this Board of Commissioners shall cause the Bond Order, with a statement appended in form described by GS 159-58, to be published in The Fayetteville Observer.

(2) The County Finance Officer is hereby authorized to proceed with the financing, including allowing publication and circulation by the Local Government Commission of a formal notice of sale for bonds pursuant to the Bond Order

(3) This resolution shall take effect immediately.

P. Consideration of Approval of Bond Order Authorizing General Obligation Refunding Bonds (Not to Exceed \$20,000,000) to Reduce Interest Expense.

BACKGROUND: The Board of Commissioners called a public hearing to consider a bond order authorizing issuance of general obligation bonds to refund portions (up to \$20,000,000) of the County's 1994, 1995 and 1997 Community College Facilities, School and Library General Obligation Bonds to reduce the County's interest expense.

SPEAKERS: None

ACTION: Approve the Bond Order and adopt Resolution calling for publication of bond order as adopted.

MOTION: Commissioner Henley moved to approve the Bond Order and adoption of the Resolution calling for publication of the Bond Order as adopted.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

RESOLUTION CALLING FOR PUBLICATION OF BOND ORDER
AS ADOPTED AND OTHER MATTERS

WHEREAS, the Board of Commissioners of Cumberland County has today adopted a Bond Order entitled: "BOND ORDER AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2004 OF CUMBERLAND COUNTY IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000 FOR THE PURPOSE OF REFUNDING, IN PART, CERTAIN MATURITIES OF THE COUNTY'S GENERAL OBLIGATION COMMUNITY COLLEGE FACILITIES BONDS, SERIES 1994, GENERAL OBLIGATION SCHOOL BONDS, SERIES 1995, AND GENERAL OBLIGATION LIBRARY FACILITIES BONDS, SERIES, 1997; and

WHEREAS, NCGS 159-58 provides for publication of the Bond Order as adopted.

NOW, THEREFORE, the Board of Commissioners of Cumberland County, meeting in regular session at Fayetteville, North Carolina, on August 16, 2004, does the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY:

(1) The Clerk to this Board of Commissioners shall cause the Bond Order, with a statement appended in form described by GS 159-58, to be published in The Fayetteville Observer;

(2) The County Finance Officer is hereby authorized to proceed with the financing, including allowing publication and circulation by the Local Government Commission of a formal notice of sale for bonds pursuant to the Bond Order.

3. Consent Agenda

Commissioner Henley pulled J to be considered separately.

MOTION: Commissioner King moved to follow staff recommendations on the items on the Consent Agenda, except Item J, which will be considered by a separate vote, and Item E which was removed from the Agenda.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

A. Approval of minutes for the August 2, 2004 regular meeting.

ACTION: Approve

- B. Approval to Refer Rezoning Case No. P04-07 Back to the Planning Board to Initiate a New Rezoning Case.

BACKGROUND: The Board of Commissioners, at its meeting on February 17, 2004, approved rezoning from R6A to C(P) for property located at 5000 Cumberland Road. There was some opposition to the rezoning. The petitioner would like to have the rezoning reversed back to R6A.

ACTION: Refer the case back to the Planning Board to consider this request at no cost to the petitioner.

- C. Approval of the 2004 Agricultural Hall of Fame Nomination.

BACKGROUND: The Cumberland County Agricultural Hall of Fame nominating committee selected Eleanor Getz for the 2004 Agricultural Hall of Fame.

ACTION: Approve the induction of Eleanor Getz into the 2004 Agricultural Hall of Fame.

- D. Approval of Cape Fear Valley Health System Lease Agreements.

BACKGROUND: Cape Fear Valley Health System requests approval of the following subleases:

Southeastern Radiation Therapy – 1638 Owen Drive, Fayetteville, NC
\$5,523.40/year (276.17 square feet within the confines of the Cancer Center Radiation Therapy Area)

Carolina Cancer Management – 1638 Owen Drive, Fayetteville, NC
\$3,910.20/year (195.51 square feet within the confines of the Cancer Center Medical Oncology Department)

ACTION: Approve the subleases.

- E. Approval of Amendment of Fire Protection Contract with Stoney Point Volunteer Fire Department, Inc.

This item was removed from the agenda.

- F. Approval of a Resolution Urging the Congressional Delegation to Obtain Funds to Restore the Three Locks and Dams on the Cape Fear River.

BACKGROUND: Bladen County Board of Commissioners has asked us to adopt a resolution urging our Congressional Delegation to obtain funding the Federal FY05 budget to restore and continue to maintain and operate the three locks and dams on the lower Cape Fear River.

ACTION: Adopt Resolution

RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
URGING THE COUNTY'S CONGRESSIONAL DELEGATION TO OBTAIN FUNDS
TO RESTORE THE THREE LOCKS AND DAMS ON THE CAPE FEAR RIVER

WHEREAS, the Cape Fear River is a major natural asset and feature of the ecosystem of Southeastern North Carolina; and

WHEREAS, the Cape Fear River is a vital recreational resource to Southeastern North Carolina; and

WHEREAS, the three United States Army Corps of Engineers locks and dams on the lower Cape Fear River are essential to the Cape Fear River being navigable from Cumberland County to Cape Fear; and

WHEREAS, the recreational facilities and boat ramps at these locks and dams promote recreation, boating and outdoor leisure activities along the Cape Fear River, and contribute significantly to the quality of life in Southeastern North Carolina; and

WHEREAS, these locks and dams and their associated recreational facilities and boating ramps are critical to future opportunities to promote eco-tourism along the Cape Fear River, and to increased awareness of and sensitivity to the natural environment and flora and fauna of the Cape Fear River ecosystem; and

WHEREAS, the proposed Federal FY 05 budget contains no funding for maintenance and continued operation by the Corps of Engineers of the lower Cape Fear River locks and dams.

NOW, THEREFORE, THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS RESOLVES that it urges the Cumberland County Congressional delegation to obtain funding in the Federal LFY 05 budget to restore and to continue to maintain and operate the three locks and dams on the lower Cape Fear River for the benefit of all Southeastern North Carolina.

- G. Approval of a Resolution Making Findings of Fact in Support of Proposed General Obligation Bond Issue for School Purposes, Series 2004.

ACTION: Adopt Resolution

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CUMBERLAND
NORTH CAROLINA MAKING FINDINGS OF FACT IN SUPPORT OF THE PROPOSED
GENERAL OBLIGATION BOND ISSUE FOR SCHOOL PURPOSES, SERIES 2004

WHEREAS, the Board of Commissioners of the County of Cumberland, North Carolina (the "Board of Commissioners") is considering the issuance of bonds of the County of Cumberland, North Carolina (the "County") which shall be for the following purpose and in the following maximum amount:

\$5,076,000 of bonds to pay the costs of providing for the construction, renovation, improvement, equipping and furnishing of public school facilities within the County, including the acquisition of land or rights of way, in necessary.

WHEREAS, certain findings of fact by the Board of Commissioners must be established to enable the Local Government Commission of the State of North Carolina to make certain determinations as set forth in GS 159-52.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners meeting in open session on the 16th day of August, 2004, makes the following findings of fact:

(a) **Facts Regarding Necessity of Proposed Financing.** The proposed bonds are necessary and expedient in order to pay the costs of providing for the construction, renovation, improvement, equipping and furnishing of public school facilities within the County, including the acquisition of land or rights of way, if necessary.

(b) **Facts Supporting the Amount of Bonds Proposed.** The amounts of these bonds proposed to be issued are adequate and not excessive for the proposed purpose.

(c) **Past Debt Management Policies.** The County's debt management policies have been carried out in compliance with law. The County employs a full-time Finance Director to oversee compliance with applicable laws relating to debt management. The Board of Commissioners requires annual audits of County finances. In connection with the audits, compliance with laws is reviewed. The County is not in default in any of its debt service obligations. The County Attorney reviews all debt-related documents for compliance with laws.

(d) **Past Budgetary and Fiscal Management Policies.** The County's budgetary and fiscal management policies have been carried out in compliance with laws. Annual budgets are closely reviewed by the Board of Commissioners before final approval of budget ordinances. Budget amendments changing a departmental total or between departments are presented to the Board of Commissioners at regular Board of Commissioners meetings. The Finance Director presents financial information to Board of Commissioners which shows budget to actual comparisons annually and otherwise as the County Manager deems necessary or as a member of the Board of Commissioners may request.

(e) **Retirement of Debt.** The County's current ad valorem tax rate is 88 cents per \$100 of appraised property subject to taxation. An increase in taxes is not projected or deemed necessary to service these bonds, in that available local option sales tax funds required to be expended for school capital purposes will be applied to retire the debt. The schedule for issuance calls for issuing all of the bonds in the Fiscal year ending June 30, 2005.

- H. Approval of Declaration of Surplus County Property and Authorization to Accept Insurance Settlement.

BACKGROUND: Date of Accident: July 21, 2004

Vehicle: 1997 Crown Victoria
VIN: 2FALP71W3VX125206
Mileage: 169,150
Department: Sheriff's Office
Settlement Offer: \$3,780
Insurance Company: St. Paul

ACTION: Declare the vehicle surplus, authorize acceptance of settlement offer and Allow St. Paul to take possession of the surplus vehicle.

- I. Approval of County Personnel Committee Report and Recommendation regarding the FY 2004-2005 Position Classification and Pay Plan.

BACKGROUND: The County Personnel Committee approved the 2004-05 Position Classification and Pay Plan at its meeting on August 12, 2004.

ACTION: Approve the Plan.

- J. Approval of a Resolution in Support of Amendment One: Self-Financing Bonds, A Local Economic Development Tool to Create Quality Jobs, Revitalize Communities and Attract New Economic Opportunities in North Carolina.

ACTION: Adopt Resolution

RESOLUTION IN SUPPORT OF AMENDMENT ONE:
SELF-FINANCING BONDS – A LOCAL ECONOMIC DEVELOPMENT TOOL
TO CREATE QUALITY JOBS, REVITALIZE COMMUNITIES AND
ATTRACT NEW ECONOMIC OPPORTUNITIES IN NORTH CAROLINA

WHEREAS, the County of Cumberland has a need to attract more jobs and economic development; and

WHEREAS, self-financing bonds will have a direct impact on creating new jobs, new investment and strengthening the tax base in our state; and

WHEREAS, communities across the nation have used these bonds successfully to promote economic development; and

WHEREAS, use of the bonds will make a difference for every community-urban, suburban and rural; and

WHEREAS, these bonds will give local governments flexibility to pursue multiple types of economic development projects including industrial site development, redevelopment of existing industrial and Brownfield sites, affordable housing and community revitalization; and

WHEREAS, these bonds allow North Carolina's local governments to use a new mechanism to invest in public improvements designed to attract private sector investment; and

WHEREAS, North Carolina is only one of two states in the nation that does not have this economic development tool; and

WHEREAS, self-financing development bonds have received wide-range bi-partisan support from the General Assembly and the business community as well as municipal, county and state government and former Governors Holshouser, Martin and Hunt; and

WHEREAS, North Carolina will have some of the strongest safeguards in the country to ensure self-financing bonds are used for good purposes; and

WHEREAS, these bonds are subject to voter approval on the November 2004 ballot and deserve rightful consideration by the citizens of the State.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Cumberland County strongly supports self financing development bonds because now is the time to enhance our ability to create new jobs and investment in our county.

BE IT FURTHER RESOLVED that Cumberland County pledges to work to educate and inform the citizens of the state and Cumberland County about the importance of self-financing development bonds in providing jobs and improving economic competitiveness, and pledges to encourage voters to approve the measure in November 2004.

MOTION: Commissioner Henley moved to approve.
SECOND: Commissioner King
VOTE: UNANIMOUS

- K. Status of Case P04-18 regarding the rezoning of 5.18 acres from RR to R6, or a more restrictive zoning district, at 7315 Rockfish Road, owned by Irina Anderson.

BACKGROUND: On June 21, 2004, the Board of Commissioners deferred the above referenced case for sixty days at the request of the petitioner. The request to delay was due to the pending finalization of a contract for purchase of the property by the School System. The contract is still pending and the petitioner's agent, Mr. Jeff Pucylowski, and Tim Kinlaw with the school system, have indicated closing is imminent; however they are awaiting an environmental study. The County will be notified by letter of withdrawal as soon as the contract has been executed.

No action needed.

- L. Budget Revisions:

ACTION: Approve

(1) Community Development

- a. Public Facilities - Revision in the amount of \$1,186,435 to re-budget FY2004 grant funds (\$1,180,000) and fund balance of (\$6,435). (B05-032) **Funding Source – Federal Grants and Community Development Fund Balance**
- b. HOME Administration – Revision in the amount of \$60,000 to re-budget FY2004 grant funds. (B05-033) **Funding Source – Federal Grants**
- c. HOME Program/General Government – Revision in the amount of \$891,139 to re-budget FY2004 grant funds (\$787,521) and match from General Fund (\$103,618). (B05-043 and B05-043A) **Funding Source – Federal Grants and General Fund Fund Balance Appropriated**

(2) Soil and Conservation District

Revision in the amount of \$1,000 to recognize grant funding received from the North Carolina Foundation for Soil and Water Conservation Inc. for the Outdoor Environmental Learning Center project. (B05-046) **Funding Source – Grant**

(3) Sheriff

- a. Local Law Enforcement Block Grant 2003 - Revision in the amount of \$150,238 to appropriate fund balance to budget unexpended federal grant funds from FY2004. (B05-034) **Funding Source – Fund Balance Appropriated**
- b. Local Law Enforcement Block Grant 2002 - Revision in the amount of \$16,723 to appropriate fund balance to budget unexpended federal grant funds from FY2004. (B05-035) **Funding Source – Fund Balance Appropriated**

(4) Social Services

Revision in the amount of \$130,261 to re-establish two positions with additional funding made available for Day Care Administration and to use additional funds to cover the cost of temporaries. (B05-044) **Funding Source – State**

(5) Planning and Inspections

Revision in the amount of \$1,141 to reallocate budgeted expenditures to fund a certification level increase. (B05-045) **Funding Source – Reallocation of Budgeted Expenditures**

(6) Mental Health

Revision in the amount of \$6,566 to budget fund balance for contracted services for client placement. (B05-047) **Funding Source – Mental Health Fund Balance**

(7) Tax Administration/Planning and Inspections

Revision in the amount of \$5,850 to reallocate travel and training expenditures to support the GIS program that was transferred from the Tax Administration Department to the Planning and Inspections Department during the budget process. (B05-031 and B05-031A) **Funding Source – Reallocation of Budgeted Expenditures**

(8) Health

- a. Environmental Health - Revision in the amount of \$2,428 to reallocate budgeted expenditures for salary increase pursuant to the Environmental Health Recruitment and Retention plan. (B05-011) **Funding Source – Reallocation of Budgeted Expenditures**
- b. Various Departments – Revision in the total amount of \$12,534 to reallocate budgeted expenditures for salary increase of a nursing position split between four organizations. (B05-012 through B05-012C) **Funding Source – Reallocation of Budgeted Expenditures**
- c. Various Departments – Revision in the total amount of \$1,356 to reallocate budgeted expenditures for reclassification in a split position. (B05-013 through B05-013C) **Funding Source – Reallocation of Budgeted Expenditures**
- d. Child Health Clinic/Management Support – Revision in the amount of \$17,362 to reallocate budgeted expenditures for reclassification of two positions. (B05-014 and B05-014A) **Funding Source – Reallocation of Budgeted Expenditures**
- e. Women, Infant, Children's Program – Revision in the amount of \$4,444 to reallocate budgeted expenditures for reclassification of two positions. (B05-015) **Funding Source – Reallocation of Budgeted Expenditures**

Items of Business

4. Presentation on the Status of Mental Health Reform by Hank Debnam, Mental Health Area Director.

Mr. Hank Debnam reviewed the status of mental health reform. House Bill 381 mandated that the public behavioral health system be changed into Local Management Entities, requiring Mental Health Centers to develop more providers of services in communities. Our Mental Health Center has received conditional certification as a Local Management Entity. The Mental Health Center is working toward divestiture. The work force in 2002 was 435. The current work force is 348. The following services have been divested: Community Based Services, DWI Program, 2 child group homes, Employee Assistance Program, Early Childhood Intervention and Spainhour Development Day Program. The following divestiture will occur in FY04-05: Hank Debnam Center, Lura Tally Center and Mental Health and Substance Abuse Case Management. The current challenges are being faced at this time: reimbursement for services is decreasing, adequate funding for LME's to be successful, retention of current staff due to Mental Health Reform fears, LME's and providers need

specific information to develop adequate community services, consumers have more complex needs and consumers need to be served in their home counties. The Mental Health Center has until 2007 to divest.

5. Consideration of Whether to Participate with the City of Fayetteville and the Cumberland County Business Council to Obtain the Services of a Federal Lobbyist.

6.

BACKGROUND: On May 17, 2004, the Board of Commissioners agreed to support the concept of having a lobbyist in Washington to represent us. We would partner with the CCBC and the City of Fayetteville in this venture. Four firms have been chosen for consideration, Ball Janik, LLP, Womble-Carlyle, JC Watts Group, and the Fergusan Group. It has been suggested that the City Manager, County Manager and the President of CCBC meet and select a firm for the respective boards to consider.

ACTION: Determine whether the Board wants to participate in the funding of this joint venture.

Members of the Board of Commissioners expressed their willingness to move forward, but said more specific information regarding fees, etc. is desired.

Commissioner Baggett noted he was supportive as long as the County got "its money's worth".

Commissioner Blackwell moved that Caldwell County and Lenoir have partnered to hire a federal lobbyist to represent them.

MOTION: Commissioner Henley moved that we proceed with this joint venture subject to more specific information regarding fees, etc.

SECOND: Commissioner King

VOTE: UNANIMOUS

7. Consideration of Support for Proposed Environmental Court.

BACKGROUND: During the past year an Ad Hoc Committee has been examining the feasibility of establishing an "Environmental Court" wherein cases involving violations of health, fire, solid waste, animal control, building, zoning and inspection standards of local codes would be handled and enforced. The Committee came up with three options to handle these issues: (1) Small Claims Court; (2) Civil District Court; and (3) Criminal District Court.

ACTION: Determine if the Board wants to establish an Environmental Court and select one of the Options as noted above.

MOTION: Commissioner Baggett moved to select Option 3.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

8. Consideration of County Facilities Committee Report and Recommendations:

- A. Consideration of Using PWC Facility Investment Fee (FIF) Credits to Offset Costs of the Windridge Subdivision Water Extension Project.

BACKGROUND: The Board of Commissioners, at its June 21, 2004 meeting, held a public hearing but delayed taking action on a Final Assessment Resolution for the Windridge Project. The Board referred the matter of Cumberland County using some of the Facility Investment Fee credits, with PWC to help offset the cost of providing public water service to the residents of Windridge, back to committee and review by staff. At the present time, the County has \$275,000 available credits for water projects with \$25,000 of those credits expiring June 30, 2004. PWC has agreed to extend the expiration date for the Windridge project. The County Facilities Committee met on August 10, 2004 and recommends that the Board of Commissioners approve using the FIF credits to offset the FIF fee for this project.

ACTION: Adopt Final Assessment Resolution and approve using the FIF credits to help offset the FIF fee for this project.

FINAL ASSESSMENT RESOLUTION
WINDRIDGE SUBDIVISION WATER EXTENSION PROJECT

WHEREAS, the Cumberland County Board of Commissioners has determined a serious public health problem exists in the Windridge Subdivision, with contaminated individual water supply systems; and

WHEREAS, the property owners within the Windridge Subdivision have petitioned the Cumberland County Board of Commissioners to extend public water within the subdivision; and

WHEREAS, the Cumberland County Health Department has researched its records for water quality complaints and recommends the Board of Commissioners undertake a special assessment to finance water extensions for the Windridge Subdivision.

NOW, THEREFORE, the Board of Commissioners, pursuant to Article 9 of Chapter 153A of North Carolina General Statutes, hereby adopts the following special assessment resolution:

I. Need for Project. The Board of Commissioners of Cumberland County hereby undertakes a project to extend public water to the Windridge Subdivision. This project is required to eliminate the use of contaminated individual groundwater wells for consumptive and hygienic purposes. The Cumberland County Health Department and the State's Epidemiologist's Office conducted a review of water quality complaints in the above referenced area and found high levels of arsenic and other compounds hazardous to health in the well water at many homes within the subdivision.

II. General Description of the Project. This project will include installation of approximately 5,650 total linear feet of water main extending from an existing 8 inch water main along Chickenfoot Road near the Windridge Subdivision, including all appurtenances, to serve 80 residences within the Windridge Subdivision.

III. Ownership. The water line extensions will become the property of the Public Works Commission of the City of Fayetteville and will be operated and maintained by PWC as part of its comprehensive public water system throughout its service area.

IV. Proposed Basis of Assessment. The proposed basis of assessment will be at an equal rate per lot in the project area along which public water is extended.

V. Percentage of Cost to be Assessed. The total engineering, construction and administrative costs shall be assessed against the benefited properties in this special assessment project.

VI. Abeyance. No assessment will be held in abeyance.

VII. Terms of Payment. The assessment will be payable in five (5) annual installments and the first installment with interest will be due sixty (60) days after the date that the assessment roll is confirmed. One installment with interest is due on the anniversary date in each successive year until the assessment is paid in full. The interest rate shall be set at eight percent per annum. The assessment may be paid in full without interest anytime up to sixty days after the confirmation of the assessment roll is published.

MOTION: Commissioner Blackwell moved to approve.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

B. Consideration of Participating with the Developer and the Public Works Commission Regarding Extending Water and Sewer Service to the Intersection of Highway 87 and Sandhills Road.

BACKGROUND: The Fayetteville Public Works Commission is considering a project that will bring water and sewer service to the intersection of Highway 87 South and Sandhills Road as well as considering a water line project to the Bladen County line on Highway 87 to support a proposed industrial park. The project is in support of some commercial development that is already in the planning/design phase with construction expected to start shortly. PWC is seeking participation in the amount of \$300,000 from the County to make Phase I of this project a reality. PWC will be investing \$300,000 and private developers will be investing \$770,000 to bring water and sewer lines to the intersection of Hwy. 87 and Sandhills Road. The project location is on the boundary of the area designated as Urban Services for planning purposes. The speculative development is within the Urban Services Boundary. At the present time there is an estimated un-obligated Water & Sewer Fund balance of \$706,000; committing to this project would reduce the amount to approximately \$400,000.

ACTION: The County Facilities Committee, Management and PWC recommend the Board approve county participation in Phase I of the project, as well as to proceed with development of an Interlocal Agreement with the PWC.

MOTION: Commissioner Blackwell moved to approve.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

C. Guaranteed Energy Savings Contractor Selection.

BACKGROUND: The County Facilities met to consider the selection of a contractor to partner with the County to implement a Guaranteed Energy Savings Contract for Governmental Units pursuant to NCGS 143-64.17A-K. Three firms made proposals. The Facilities Committee recommends that the Board select Johnson Controls, Inc. to provide the services necessary to implement energy conservation measures by means of a Guaranteed Energy Savings Contract.

ACTION: Select Johnson Controls, Inc. and authorize staff to proceed with developing a contract.

MOTION: Commissioner Blackwell moved to approve.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

9. Nominations to Boards and Committees

A. Cape Fear Valley Hospital Board of Trustees (1 Vacancy)

BACKGROUND: Katheryn Jenifer, filling the R.N. position, will be completing her first term, September 30, 2004. She is eligible for reappointment.

NOMINEE: Katheryn Jenifer

B. Nursing Home Advisory Board (2 Vacancies)

BACKGROUND: The above board has 2 vacancies: Eleanor Hall Ayers has completed her second term and Monica Barrett has resigned. Recommendations to fill those vacancies are: Martha McKoy and Mariela Walker.

NOMINEES: Martha McKoy
Mariela Walker

10. Appointments to Boards and Committees

MOTION: Commissioner Blackwell moved to appoint the nominees in A-E.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

A. Adult Care Home Community Advisory Committee (2 Vacancies)

Nominees: Deborah Atkinson
Julie Smith

B. Board of Adjustment (3 Vacancies)

Nominees: Sean Scott Fincher – Regular Member
Steve Burnett – Alternate Member
Dr. John Ray – Alternate Member

C. Local Emergency Planning Committee (8 Vacancies)

Nominees:

Emergency Management Representative: Michael Costa
First Aid Representative: Scott Blecke
Law Enforcement Representative: Captain LaRue Windham
Utilities Representative: Danny Terry
Community Group Representative: Jeff Womble
At-Large Representative: Dawn O'Donnell
Print and Broadcast Media Representatives: Sara VanderClute
Jason Brady

D. Senior Citizens Advisory Board (2 Vacancies)

Nominees: Evelyn C. Bryan
Joe Potts

E. Workforce Development Board (1 Vacancy)

Nominees: Tim Owen

MOTION: Commissioner Henley moved to recess the Board of Commissioners meeting, so the Board could meet as the NORCRESS Governing Board.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

Note: The NORCRESS Board met. Minutes of its meeting may be found in the Minute Book for Sewer District meetings.

MOTION: Commissioner Baggett moved to reconvene the Commissioners' meeting.

SECOND: Commissioner King

VOTE: UNANIMOUS

10. Closed Session:
- A. Personnel Matters Pursuant to NCGS 143-318.11(a)(6).
 - B. Economic Development Matter Pursuant to NCGS 143-318.11 (a)(4)
 - C. Attorney Client Matter Pursuant to NCGS 143-318.11(a)(3)

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

SECOND: Commissioner King

VOTE: UNANIMOUS

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

MEETING ADJOURNED: 10:50PM.

Clerk to the Board