

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JANUARY 18, 2005, 7:00PM
REGULAR/REZONNG MEETING

PRESENT: Commissioner John Henley, Chairman
Commissioner Billy King, Vice Chairman
Commissioner Talmage S. Baggett
Commissioner Jeannette M. Council
Commissioner Kenneth S. Edge
Commissioner Diane Wheatley
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Cliff Spiller, Asst. County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Tom Lloyd, Deputy Director, Planning/Inspections
Marsha Fogle, Clerk
Sara VanderClute, Public Information Officer
ABSENT: Commissioner Breeden Blackwell (teaching at
"Essentials of Government" course for new
commissioners

INVOCATION - Chairman John Henley

PLEDGE OF ALLEGIANCE – Shelby Elizabeth Miller – 5th Grade - Vanstory

Special Recognition: Cumberland County Emergency Communications: Awarded the Emergency Medical Dispatch Center of Excellence by the National Academies of Emergency Dispatch. Ronald "Doc" Nunnery, Emergency Services Director

1. Consent Agenda

Chairman Henley asked that Consent Agenda Item E be voted on separately.

MOTION: Commissioner Baggett moved to approve all items on the Consent Agenda, except Item E as recommended by Staff.

SECOND: Commissioner Council

VOTE: UNANIMOUS

- A. Approval of minutes for the December 20, 2004 and the January 3, 2005 regular meetings.

ACTION: Approve

- B. Approval of First Time Homebuyer Program Loan Assumption for Community Development.

BACKGROUND: During a recent inspection of property located at 3234 Glenmore Drive, Hope Mills, NC, Community Development staff discovered that Stephen Fleetwood, a borrower under the First Time Homebuyers Program, no longer occupies the dwelling. Mr. Fleetwood sold the property to Mr. David Kelly. Mr. Kelly assumed the first mortgage with Wells Fargo without having a title search performed. Wells Fargo failed to notify the County of the loan assumption. Mr. Kelly is renting the property to tenants who may qualify as a low-moderate income household. The Kellys have indicated an interest in assuming Mr. Fleetwood's loan. Community Development administers a Rental Rehabilitation Program for investors to fund acquisition and repair of properties that will be used as rentals for qualified tenants. The current RRP requires a 90% loan to value ratio and loan terms of 3% interest amortized over 15 years. A loan assumption and additional needed repairs on the subject property could also be accomplished through this program. Mr. Kelly has sufficient income and credit to qualify for the RRP loan. The County's current investment in the property is \$22,950 with a second position lien. CD staff proposes making a RRP loan to Mr. & Mrs. Kelly that would cover the County's initial investment, paying off the first mortgage, which is currently financed at 8% and provide funds for renovation of the property. The loan would be structured at 5% interest for a 30-year term. The property's appraised value of \$79,500 supports a LTV ratio of 93% or a total loan amount of \$73,950. However, staff recommends allowing a LATV ratio up to 100% to cover any contingencies or additional work identified during the rehab process. Restructuring this debt in this manner allows the County to have a first lien position as well as allows the rents to remain affordable for low-moderate income tenants.

ACTION: Allow the Kelly's to assume Mr. Fleetwood's indebtedness made through the Homebuyer Program; authorize a one-time except to the RRP policy to allow repayment over a 30-year term vs. 15 years; and authorize a one-time exception to the RRP guidelines to allow the current 90% combined loan to value ratio to be increased up to 100%.

C. Approval of Rental Rehabilitation Program Policy Revisions for Community Development.

BACKGROUND: Since the implementation of the Rental Rehabilitation Program in 2002, the housing industry has seen historically low interest rates. At the time the interest rate for the program was established at 3%; however, it is believed that a 5% rate would now be competitive in today's market for investors. The current policy only allows the use of CDBG funds. In an effort to better manage spending requirements and thresholds for CDBG and HOME Investment Partnership Act funds, staff proposes to incorporate the use of HOME funds for this program as well.

ACTION: Change the current interest rate on RRP loans from 3% to 5% and include the use of HOME funds for RRP loans.

D. Approval of Offer to Acquire Property at 503 Old Wilmington Road for Community Development.

BACKGROUND: When Robin's Meadow Apartments was designed it proposed two phases. Phase I was completed in January 1999. Phase II is proposed to provide 16 rental units of permanent housing for homeless families. Phase II would include an onsite community/support services building to house a resident manager as well as provide meeting space. To date, funding has not been available to construct Phase II. Consequently there is no on-site management office on the property. Although Cumberland County is owner of the project, the Salvation Army administers the program and is responsible for the day-to-day activities of the project. Over recent months the Salvation Army has reported more vandalism of the apartment units and theft of furnishings provided through the program. To better secure and manage the property, an on-site presence is needed and an on-site office is being considered adjacent to the Robin's Meadow site. The address is 503 Old Wilmington Road and the property is on the market for rent or sale. The site is approximately 39 acres. The unit has 1987 square feet with five bedrooms, a living room and kitchen/dining combination. There are 3 full baths. The property has been appraised at \$85,000.

ACTION: Authorize Community Development to offer to purchase the property for \$85,000. If the owner declines, Community Development will not pursue purchase of the property.

E. Approval of Draft FY 2006 Federal Legislative Agenda.

BACKGROUND: The Ferguson Group submits the following Federal Legislative Agenda for consideration by the Board of Commissioners. The agenda is based on meetings held with the City Council, Board of Commissioners and Cumberland County Business Council.

- (1) Transportation: Secure \$3 million to relocate train switching yard and \$2 million for rail spur extension. Also secure \$7 million in the reauthorization of the Transportation Equity Act to relocate train switching yard.
- (2) Regional Public Safety Communications - \$3 million in Commerce, Justice, State Appropriations to provide equipment allowing the Police and Sheriff's Office to communicate with each other and with other public safety agencies and with Fort Bragg.
- (3) Water/Sewer: Secure \$1.5 million in Environmental Protection Agency Appropriations, State and Tribal Assistance Grants for a county-wide water system and sewer urban retrofitting.

POSSIBLE PROJECTS:

Military Buffer: Secure federal funding to acquire lands adjacent to Fort Bragg and Pope Air Force Base for environmental purposes and military training.

Creek Restoration: \$500,000 in the Energy and Water Appropriations Bill for streambank stabilization studies and implementation on Rockfish Creek, Buckhead Creek, Beaver Creek and Cross Creek.

Community Revitalization: Secure \$500,000 in VA-HUD Appropriations, Economic Development Initiative or Neighborhood Revitalization for demolition and rehab of

housing (mobile homes) or one stop senior-citizens' centers or rural facility or downtown park, or Martin Luther King Museum or Freedom Memorial Park.

OTHER ITEMS OF INTEREST:

Military Business Park
Defense Technology Center
Airport Improvements
Medicaid funding
Hispanic assistance
Lock Dam structures on Cape Fear River
Clean Air
Increased funding for Juvenile Offenders
Workforce Investment
Housing (Hope VI) and for homeless assistance
Domestic and Child Abuse prevention
Child Care (military children)
Brownfields
Growth Management
Education (Impact Aid, train military for teaching careers, etc)
Fire Department – funding to increase minority recruitment efforts/training
Homeland Security
Conference Center and Hotel
Cape Fear River Development Project
Downtown Parking Project

Chairman Henley inquired about the "military buffer" item which does not have a number but is listed as a "possible project". The Manager stated that information needed to pursue funding for this particular item may not be sufficient to move forward. However, each item will be addressed and as much information assembled as is possible on each issue.

MOTION: Commissioner King moved to approve the updated Legislative Agenda as noted above.
SECOND: Commissioner Edge
VOTE: UNANIMOUS

F. Approval of Department of Transportation Right-of-Way for the Wilkes Road Widening.

BACKGROUND: The Department of Transportation has issued bid requests to contractors and is taking approximately four acres of the total 104 acres of the County's Crown Center property for the widening of Wilkes Road to East Mountain Drive. The project will provide an enhanced entrance and improved traffic ingress and egress to the Crown Center. In consideration, NCDOT will compensate the County the sum of \$274,750 and will also construct an access road to allow unimpeded access to the coliseum's loading dock for the tractor-trailer trucks that exhibitors use to bring in sets and stage equipment.

ACTION: Adopt resolution.

RESOLUTION AUTHORIZING THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY FOR WILKES ROAD WIDENING

WHEREAS, the NCDOT is widening Wilkes Road to East Mountain Drive; and

WHEREAS, the NCDOT is taking approximately four acres of the total one hundred four acres of the County's Crown Center property as part of this project; and

WHEREAS, one of the outcomes of this project will be enhanced entrance and improved ingress and egress to the Crown Center; and

WHEREAS, at a duly scheduled meeting of the Board of Commissioners on January 18, 2005, the Board authorized the Chairman or the County Manager to execute an Agreement for Entry and a Deed for Highway Right of Way to reflect the taking; and

WHEREAS, the NCDOT has offered the sum of \$274,750 as compensation to the County for the taking; and

WHEREAS, the NCDOT will also construct an access road to allow unimpeded access to the Crown's loading dock for tractor-trailer truck exhibitors.

NOW, THEREFORE, BE IT RESOLVED, that the Cumberland County Board of Commissioners approves NC DOT's widening of Wilkes Road and the takings of approximately four acres of the County's Crown Center property, authorizes the Chairman or County Manager to execute an Agreement for Entry and a Deed for Highway Right of Way to reflect the taking, approves the sum of \$274,750 as the County's compensation for the takings, and authorizes the construction of an access road to allow unimpeded access to and from the Coliseum's loading dock during the project.

G. Approval of the Consolidated Parks & Recreation Department's Measures of Success.

BACKGROUND: Pursuant to the operations agreement, the City and County Managers present for approval by the City Council and Board of Commissioners "measures of success" which includes a survey of customers and employees reflecting satisfaction ratings to benchmarks agreed upon by the Managers, to use as a basis for evaluating success of the consolidation of parks and recreation services. The Measures of Success focus on five factors: employees, customer service, recreation master plan and five-year CIP, expansion of outdoor/adventure activities for senior programs and survey of municipalities served.

ACTION: Approve Measures of Success for consolidated parks and recreation department.

Commissioner Council asked that information regarding the merged departments be forwarded to the Board of Commissioners in a timely manner, as soon as compilation is complete.

H. Approval of Settlement of Issues Regarding Lease and Inducement Agreement with AIT.

BACKGROUND: The Board of Commissioners has authorized settlement of certain outstanding issues between the County and AIT. Pursuant to the settlement, AIT will exercise its option to purchase the old DSS/AIT Building for \$310,000 plus the compounded increase in the CPI since 2000, but capping the CPI increase at 1.66% annually. That results in a purchase price of \$331,000. In addition, AIT will agree to maintain its corporate headquarters and presence in downtown Fayetteville at least through December 31, 2006. The County and AIT will compromise AIT's claim of approximately \$680,000 under the lease for repairs and maintenance of the building by splitting it, with the County contributing \$350,000 towards the repairs, and with the parties agreeing that priority in using the funds will go towards items required to assure state building and fire code compliance. Under the inducement agreement, although AIT has exceeded its capital investment benchmark level of \$2.5 million by investing at least \$5 million by yearend 2004, it had reached a peak job creation level only of 183 full-time jobs at an average salary of approximately \$15.10 an hour, short of its job creation benchmark of 225 full-time jobs at an average salary of \$17 an hour. To resolve any issue relating to job creation and recognizing that the County spent \$450,000 to upgrade the building for AIT's occupancy, AIT will make a payment to the County of \$55,000.

ACTION: File this memo as a record of settlement with the minutes of this meeting.

I. Approval of Amendment to Section 3-15 of Animal Control Ordinance.

BACKGROUND: Section 3-19 of the Animal Control Ordinance requires that strayed domestic pets impounded at the Animal Shelter and reclaimed by their owner be microchipped as well as be vaccinated for rabies if evidence of current inoculation is not provided and that the County privilege license fee be paid. Section 3-15 should be amended to clarify that a reclaiming owner also must pay the cost of microchipping.

ACTION: Adopt Resolution amending Section 3-15 which provides that the reclaiming owner is responsible for the cost of microchipping.

A RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AMENDING SECTION 3-15 OF THE CUMBERLAND COUNTY CODE TO
EMPHASIZE THAT AN OWNER RECLAIMING AN IMPOUNDED DOMESTIC PET
SHALL BE RESPONSIBLE FOR MICROCHIPPING COSTS

BE IT RESOLVED, by the Cumberland County Board of Commissioners, that Section 3-15 of the Cumberland County Code is amended in its entirety to read as follows:

"3-15 No impounded animal shall be returned to its owner until any applicable animal impoundment and boarding, vaccination, and/or microchipping fees or costs, and any penalties, are paid."

This resolution shall be effective upon its adoption.

- J. Approval of Report on the Disposal of Surplus Property Pursuant to North Carolina General Statute 160A-226(a).

BACKGROUND: On June 15, 1998, the Board adopted a resolution authorized by the statutes allowing the Assistant County Manager to dispose of certain "personal property, worth less than \$5000 per item or group of similar items, which have become obsolete, unusable, economically unrepairable or otherwise surplus to the needs of the County."

ACTION: Adopt the report and include in the minutes of this meeting. (Attachment A)

- K. Budget Revisions:

ACTION: Approve

- (1) Soil Conservation District
Revision in the amount of \$674 to budget revenue earned from tree sales. (B05-235) **Funding Source – Tree Sales**
- (2) Health
 - a. School Health Program - Revision in the amount of \$29,957 to budget additional fees earned to purchase computer equipment. (B05-233) **Funding Source – Health Fees**
 - b. Family Planning Clinic – Revision in the amount of \$35,769 to budget additional state funding for temporary assistance for needy families. (B05-236) **Funding Source - State**
- (3) Library
Revision in the amount of \$49,056 to budget funds received from e-rate reimbursements to purchase software, computers and a new telephone system for Hope Mills Branch Library. (B05-241) **Funding Source – Other**
- (4) Mental Health
 - a. Substance Abuse Contracts - Revision in the amount of \$50,000 to budget contracted services to clients. (B05-243) **Funding Source – Mental Health Fees**
 - b. Child Developmental Disabilities Child Outpatient /Development Disability Contract – Revisions in the net amount of \$25,000 to budget additional fees earned and move state funding to contract support services needed by clients on waiting list. (B05-244 and B05-245) **Funding Source – State and Child and Youth Fees**
 - c. Adult Community Services – Revision in the amount of \$48,888 to budget state funds to develop and provide services to clients returning from institutions and increase service to similar clients. (B05-246) **Funding Source – State**

d. Child and Youth Contracts/ Community Based Alternatives/ Smart Start – Revisions in the amount of \$4,903 to reallocate budget revenues between cost centers. (B05-249A thru B05-249C) **Funding Source – Reallocation of Budgeted Revenue**

e. Smart Start Daycare/Early Intervention – Revisions in the net amount of \$140,664 to reduce revenues and the Smart Start daycare budget for services no longer provided by Mental Health. (B05-247A and B05-247B) **Funding Source – Mental Health Fund Balance and State**

(5) Social Services

Revision in the amount of \$16,025 to recognize additional state funding for crisis intervention. (B05-251) **Funding Source – State**

(6) Sheriff

Revision in the amount of \$23,889 to establish a new Instructor/Program Administrator position with the training section funded by NC Crime Control and Public Safety Program. (B05-253) **Funding Source – State**

2. Public Hearings

Uncontested Cases

Rezoning

CASE E WILL ALSO BE CONSIDERED AS AN UNCONTESTED CASE AS THERE IS NO OPPOSITION PRESENT AT THE MEETING.

MOTION: Commissioner Baggett moved to follow the recommendation of the Planning Board on the Uncontested Cases, A-E.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Case P04-80. The rezoning of 1.85 acres from R5A to O&I, or a more restrictive zoning district, on the east side of Ramsey Street, south of Carvers Falls Road, owned by James I. Jones, Jr.

The Planning Board recommends approval of O&I.

B. Case P04-81. The rezoning of .28 acres from O&I to C1, or a more restrictive zoning district, at 5011 Cumberland Road, owned by Julian T. Mann, Jr.

The Planning Board recommends approval of C1.

C. Case P04-82. The rezoning of five parcels totaling 50.5 acres from RR and CD to R10, or a more restrictive zoning district, on the north and west sides of Pine Cone Lane and Camden Road, owned by Peartree Ventures, LLC, et. Al.

The Planning Board recommends of R10.

D. Case P04-83. The rezoning of a .51 acre portion of a 1.03 acre tract from R40 to RR, or a more restrictive zoning district, at 2828 Blossom Road, owned by Mary D. Pone.

The Planning Board recommends approval of RR.

Contested Cases (MOVED TO UNCONTESTED)

- E. Case P04-84. The rezoning of two parcels totaling 6.42 acres from A1 to R40A, or a more restrictive zoning district, at 4463 and 4475 Sanderosa Road, owned by Phillip T. Davis.

The Planning Board recommends approval of R40A.

Conditional Use District Hearing

- F. Case P04-85. The rezoning of 42.81 acres from A1 to R10/CU for a Conditional Use Overlay District and Permit to allow single-family residential south of Sand Hill Road, northeast of Celebration Drive, submitted by Moorman, Kizer and Reitzel, Inc., owned by Prewitt Land Company, LLC.

The Planning Board recommends approval of the Conditional Use District and Permit.

The packet material will be made a part of the minutes of this meeting.

NO SPEAKERS

MOTION: Commissioner Baggett moved to approve the Conditional Use Overlay District on finding that the request is reasonable, not arbitrary or unduly discriminatory and in the public interest.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

MOTION: Commissioner Baggett moved that the Board finds that the Permit, if completed as proposed and subject to any conditions recommended by the Planning Board and Planning Staff, 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 Edge

VOTE: UNANIMOUS

Other Public Hearings

- G. Proposed Incentive Agreement for Nitta Gelatin USA, Inc.

This public hearing is to consider a proposed economic development incentive agreement between Cumberland County and Nitta Gelatin USA, Inc. (the "Company"). The County proposes to enter into an economic development incentive agreement with the Company under which (a) the Company would commit to make a capital investment of at least \$20 million (the "Direct Investment") to construct and equip a gelatin manufacturing plant with the possibility of additional potential capital investment, within five years from January 1, 2005, and create at least seventeen full-time jobs with an annual salary of \$29,000 plus benefits, including medical/hospitalization and (b) the County would (i) provide economic incentives to the Company in the amount of \$440,000 with respect to the Direct Investment payable in equal installments over five years, (ii) sell Lot 25 in the Cumberland Industrial Center to the Company for \$7,500 per acre and (iii) cause to be paved Production Drive along the frontage with Lot 25. Said incentive payments would be contingent upon payment by the Company of applicable property taxes, and would be subject to adjustment by the County if the Company did not meet its targets. The agreement contemplates authorization for the Company to invest up to an additional \$7.5 million in return for additional County incentives of up to \$94,300. The Company has advised that construction will be finished by the end of 2006 rather than the end of this year.

ACTION: Hold the public hearing, determine if the proposed agreement is in the public interest and whether to approve the Incentive Agreement. Authorize incentive payments as noted above and authorize the Chairman to sign the agreement on behalf of the county with such revisions as may be acceptable to the County Manager and County Attorney.

SPEAKER: Bill Martin, Cumberland County Business Council. Mr. Martin said the Business Council endorses the project and opens the door for more biological companies to come to our area.

MOTION: Commissioner Council moved to approve the above noted action.

SECOND: Commissioner King
VOTE: UNANIMOUS

Items of Business

3. Nominations to Boards and Committees
 - A. Civic Center Commission (1 Vacancy)

BACKGROUND: Larry Lancaster declined his appointment. Replacement needed.

Nominee: Ralph Spivey

4. Appointments to Boards and Committees
 - A. Adult Care Home Community Advisory Committee (2 Vacancies)

MOTION: Commissioner King moved to appoint the nominees in 4A-4C.
SECOND: Commissioner Council
VOTE: UNANIMOUS

Commissioner King withdrew the name of Cynthia Bracey

Nominees: Lisa Chavez (Reappointment)
Mary Ann Brown-Jackson

- B. Community Child Protection/Fatality Prevention Team (1 Vacancy)

Nominee: At-Large Representative: Allie Wiggins

- C. Minimum Housing Appeals Board (1 Vacancy)

Nominee: Linda Miller

Chairman Henley recessed the Board of Commissioners Meeting so the Board could meet as the NORCRESS WATER AND SEWER DISTRICT BOARD. (Minutes to the NORCRESS Board meeting may be found in the Water/Sewer Minute Book)

NOTE: The Board of Commissioners and the Board of Commissioners acting as the NORCRESS BOARD went into Closed Session for an Attorney-Client Matter – NCGS 143-318.11(a)(3). The Attorney-Client Matter for the Board of Commissioners was Koenig vs. Cumberland County. A motion was duly made by Commissioner King, seconded by Commissioner Wheatley and unanimously approved, to go into Closed Session for the above matters.

The Commissioners' meeting was reconvened.

MOTION: Commissioner Baggett moved to adjourn.
SECOND: Commissioner King
VOTE: UNANIMOUS

MEETING ADJOURNED: 7:45PM.
