

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
NOVEMBER 21, 2005, 6:45PM
REGULAR/REZONING MEETING

PRESENT: John T. Henley, Jr., Chairman
Billy R. King, Vice Chairman
Commissioner Talmage Baggett
Commissioner Breeden Blackwell
Commissioner Jeannette Council
Commissioner Kenneth S. Edge
Commissioner Diane Wheatley
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, Deputy Director, Planning/Inspections
Marsha Fogle, Clerk
Sara VanderClute, PIO
Ann Hymes, Deputy Clerk

INVOCATION - Commissioner Talmage Baggett

PLEDGE OF ALLEGIANCE – Allison Whitaker – Van Story School

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM)

No Speakers.

1. Consent Agenda

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

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Approval of minutes for the November 7, 2005 regular meeting.

ACTION: Approve

B. Approval of Proposed Additions to the State Secondary Road System:

<u>Longleaf Subdivision:</u>	Wilkins Drive
<u>Ducks Landing:</u>	Snow Goose Court, Blue Teal Court
<u>Bridlewood Subdivision:</u>	Walking Trail Way, Greenhouse Drive, Canter Lane, Thistle Gold Drive, Kenan Drive
<u>Other:</u>	Jack Britt Access Road

ACTION: Approve

- C. Approval of Amendment to Deed of Trust Adding Animal Control Shelter Site as Additional Collateral for Series 2000 Revenue Bonds.

BACKGROUND: The County has applied a portion of the remaining bond proceeds from the Detention Center Project to finance the new Animal Control Shelter. This amendment to the Deed of Trust for the Series 2000 Revenue bonds will add the Animal Control Shelter site as additional collateral securing that financing and is required by the Trustee for that financing.

ACTION: Approve the second amendment to the Deed of Trust dated September 15, 1999 recorded at Book 5173, Page 0812, Cumberland County Registry and authorize the Chairman to sign and deliver it, and direct the County Attorney to record it in the Cumberland County Registry.

- D. Approval of Facilities Report and Recommendation:

- 1) Eastover-Central Recreation Center Construction Contract

BACKGROUND: The Facilities Committee reviewed the construction contract at its meeting on November 8, 2005. Note: The Board of Commissioners forwarded this item to the Facilities Committee for discussion and consideration.

ACTION: Award the construction contract to M&E Construction in the amount of \$1,966,292 and establish a contingency (5%) in the amount of \$98,315 in case there are unforeseen expenses during construction. Also approve budget revision (B06-185) appropriating \$2,064,587 from the County's recreation fund balance for the project.

- E. Approval of First Reading of Franchise Ordinance and Franchise Agreement to Perkins Management Services Company, Inc. to Provide Food Services at the Mental Authority's Health Roxie Avenue Center.

BACKGROUND: The Mental Health Authority proposes to contract with Perkins Management Services Company, Inc., to provide food services at its Roxie Avenue Center. This would replace a prior agreement with A&R Wilson Enterprise, Inc. which the Board of Commissioners approved effective July 1, 2004. This franchise agreement and ordinance would run from October 15, 2005 through June 30, 2008.

ACTION: Approve the First Reading.

- F. Approval of Fuel Fleet Card Services.

BACKGROUND: The County received three proposals for fuel fleet card services (GE Money Bank, FleetCor Technologies Operating Company and Wright Express Financial Corporation). GEMB provides the Exxon Mobil Card the County has used for the last five years. In general, the vendors proposed the same fleet card services. The proposals were evaluated on pricing, number of stores, discounts offered, card transaction blocking and the manner in which vendors handle the fuel taxes.

ACTION: Award the contract to GE Money Bank (GEMB).

- G. Approval of World AIDS Day Proclamation Proclaiming December 1, 2005 as "World AIDS Day" in Cumberland County.

BACKGROUND: The Cumberland County HIV Task Force is requesting that the Board proclaim December 1, 2005 "World AIDS Day" in Cumberland County.

ACTION: Approve the Proclamation

PROCLAMATION

WHEREAS, the global spread of HIV infection and AIDS necessitates a worldwide effort to increase communication, education and action to stop the spread of HIV/AIDS; and

WHEREAS, the Joint United Nations Program on HIV/AIDS (UNAIDS) observes December 1 of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV/AIDS; and

WHEREAS, the American Association for World Health is encouraging better understanding of the challenges of HIV/AIDS nationally, as it recognizes that the number of people diagnosed with HIV and AIDS in the United States continues to increase with an estimated 1,100,000 people in the US now infected and approximately 40,000 new HIV infections occurring every year; and

WHEREAS, in North Carolina almost 9,000 have died from AIDS, approximately 18,000 persons reported to have HIV or AIDS, and an additional 10,000 persons who may be unaware of their infection; and

WHEREAS, in Cumberland County from 2000-2004 111 persons have died from HIV, and from 1983-2003 1,204 persons reported to have HIV and 550 persons have AIDS; and

WHEREAS, the World AIDS Day 2005 theme – "Stop AIDS. Keep the Promise" – encourages people to take personal responsibility in the fight against AIDS, be accountable and address the devastation of the HIV/AIDS global epidemic with leadership, honesty and action.

NOW, THEREFORE, the Board of Commissioners of Cumberland County hereby proclaims December 1, 2005 "WORLD AIDS DAY" in Cumberland County and urges all citizens to take part in activities and observances designed to increase awareness and understanding of HIV/AIDS, to take part in HIV/AIDS prevention activities and programs, and to join the effort to prevent further spread of HIV/AIDS around the world and particularly here in Cumberland County.

H. Budget Revisions:

ACTION: Approve

(1) Tax Administration

Revision in the amount of \$5,894 to appropriate fund balance to pay Tax Management Associated for audits that have been paid through November 2005. (B06-189) **Funding Source – General Fund Fund Balance**

(2) Sheriff

Revision in the amount of \$47 for interest earned since July 1, 2005.
(B06-190) **Funding Source – Interest Law Enforcement Block Grant**

2. Public Hearings

Uncontested Cases

Rezoning

- A. Case P05-62. The rezoning of 24.20 acres from A1 to R10, or to a more restrictive zoning district, located north of Cypress Lakes Road, west of South Forty Drive, owned by Franklin R. Fowler. (NOTE: This case is contested)

The Planning Board recommends denial of R10 and approval of R15.

SPEAKERS:

Trey McLean, representing the petitioner. Mr. McLean said that his clients need the R15 in order to recoup the cost of proving utilities to the area. He noted that access is not an issue at this point. He urged the Board to accept the Planning Board's recommendation of R15.

Jeannette Hales -5332 South Forty Drive. Ms. Hales discussed drainage problems that occurred as a result of rezoning in this area a year ago. The same petitioner was involved. She said that drainage continues to be a problem and will be more of a problem if this rezoning is approved and the drainage issue is not addressed.

Dan Etzler – speaking for residents in the area. Noted the following concerns:

- Run-off and drainage.
- At this point there is only one ingress and egress which is a problem for school buses.
- Street width – not wide enough
- Density – more density will cause more noise in the area

Mr. Etzler said he had a petition signed by 111 people who live on South Forty Drive & Delancey Drive opposing the rezoning.

Barbara Jones – Opposed to the rezoning. Traffic will impact the area negatively. Concerned that the petitioner who owns two lots on Kiara will use them as access to this subdivision.

The Board discussed briefly the access issue, noting it is not something the Board needs to address.

MOTION: Commissioner King moved to approve R15.

SECOND: Commissioner Blackwell

DISCUSSION: Commissioner Wheatley noted her concerns about the runoff issue and drainage. Mr. Tom Lloyd said the NC Department of Environment and Natural Resources would address the drainage and runoff issues. In addition, the Storm Water Department could address these issues in the future. Mr. Lloyd also advised that neighbors would be given notice of subdivision plat review by the staff and an

opportunity to comment. Commissioner Edge inquired if the Board could approve the R15 with a CUD. The case would have to go back to the Planning Board and go through the process because the CUD requires a public hearing. Commissioners agreed that access through Kiara Court would be a bad idea and access from Delancey would not be preferable.

VOTE: FAVOR: Commissioners Baggett, King, Council & Blackwell

OPPOSED: Commissioners Edge, Henley & Wheatley

MOTION: Commissioner King moved to follow the Planning Board recommendation on items B&C.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

- B. Case P05-70. Initial zoning of 8.88 acres to R6A and C(P), located east of Dunn Road, north of Olive Street.

The Planning Board recommends approval of R6A and C(P).

- C. Case P05-78. The rezoning of a 1.51 acre portion of a 34.92 acre tract from R10/CU to C(P), or to a more restrictive zoning district, located at the southwest quadrant of NC Hwy 87, south of Doc Bennett Road, owned by Carriage Crossing, Inc.

The Planning Board recommends approval of C(P).

- D. Case P05-77. The rezoning of 45.74 acres from R10 to a Mixed Use Development/Conditional Use District and Permit, located south of the Hope Mills Road Bypass, north of Sycamore Drive, owned by Crosspointe Church.

The Planning Board recommends approval of the Mixed Use Development/Conditional Use District and Permit

No Speakers

MOTION: Commissioner Blackwell moved that the Conditional Use District application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest, and that it be approved.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

MOTION: Commissioner King moved that the Conditional Use Permit will not materially endanger the public health and safety, will not substantially injure the value of adjoining or abutting property and 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 subject to any conditions recommended by the Planning Board.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

Amendment

- E. Case P05-82. Revision and Amendment to the Cumberland County Zoning Ordinance by creating Section 1102 "N", entitled "Landscape requirements for new non-residential and Mixed Use Development" implementing minimum acceptable standards for landscaping thus providing protection of the physical and visual environment for the citizens of Cumberland County.

The Planning Board recommends approval of the revision and amendment to this Ordinance, with a one-year review requirement.

(Copy of the Revision/Amendment to the Ordinance may be found in the County Ordinance Book)

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

REGULAR AGENDA

3. Presentation by Jimmy Goins, Lumbee Tribal Chairman Regarding Benefits of Federal Recognition.

Mr. Jimmy Goins, Lumbee Tribal Chairman asked the Board for its support in getting federal recognition. Mr. Goins noted there is a Senator from the State of Mississippi, (Senator Cochran) who is holding up the Bill for federal recognition in Committee. Federal recognition will open up financial vistas which will benefit everyone, i.e. education monies, economic development monies, and monies to pay for health care, etc.

Commissioner Breeden Blackwell noted that UNC-Pembroke just recently passed a Resolution supporting this federal recognition. He suggested that the Board may want to pass a similar resolution.

No action taken at this meeting.

4. Consideration of Request from the North Carolina Department of Transportation to Enter Into a Partnership with Cumberland County for a Multi-Purpose DMV Facility.

BACKGROUND: The NCDOT – Division of Motor Vehicles is seeking partnerships in areas across the state in need for improved facilities occupied by DMV/SHP personnel and driver/vehicle operations utilized by the citizens of North Carolina. Such a partnership would benefit the citizens as in a one-stop-shop operation. These operations would include driver license issuance and renewals, vehicle registration services, DWI restorations, license theft operations and commercial driver training. This facility would also house school bus traffic safety specialists and serve as a regional hearing location for all DMV hearing responsibilities. Mr. George Tatum has requested that Cumberland County consider entering into such an agreement wherein the County would provide the property and in turn, DMV would erect the facility and provide the services. The acreage needed for such a facility would be 15-20 depending on the topography of the parcel.

ACTION: Approve

MOTION: Commissioner Baggett moved that the Board approve this in concept

Authorize the County Manager to negotiate such an arrangement, and that the County Manager bring back to the Board more specific information regarding the proposed agreement and land availability.

SECOND: Commissioner King

VOTE: UNANIMOUS

5. Consideration of Amending Chapter 3 of the Cumberland County Code to Prohibit Sale of Live Animals within the Right-of-Way of Public Streets and Other Public Property.

BACKGROUND: The Cumberland County Animal Control Board, at its meeting on November 7, 2005, unanimously approved recommending that the Board of Commissioners amend Chapter 3 of the Cumberland County Code to prohibit selling live animals from the right of way of public streets and other public property. This proposed amendment exempts animal welfare organizations and human societies that obtain a no-cost permit from the Animal Control Director. The Fayetteville City Council will also consider adoption of the amendment within the City limits of Fayetteville.

ACTION: Approve

MOTION: Commissioner Council moved to approve.

SECOND: Commissioner Blackwell

DISCUSSION: Commissioner King questioned the need for such an amendment. Commissioner Wheatley said she would support the motion, but did not think there should be exemptions.

VOTE: UNANIMOUS

6. Consideration of Policy Committee Recommendation to Approve Proposed Workplace Violence Prevention Policy.

BACKGROUND: At its meeting on November 3, 2005, the Policy Committee voted to recommend that the Board approve the proposed Workplace Violence Prevention Policy.

MOTION: Commissioner King moved to approve.

SECOND: Commissioner Council

VOTE: UNANIMOUS

7. Nominations to Boards and Committees

- A. Cumberland County Juvenile Crime Prevention Council (1 Vacancy)

BACKGROUND: Carmen Jean Battle has resigned from this Council. She was filling the "Juvenile Defense Attorney" position. Beth Hall has been recommended to fill this vacancy.

ACTION: Nominate to fill the vacancy.

Nominee: Beth Hall

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

BACKGROUND: Mayor Huell Aekins has completed his first term on this Committee. He is eligible for reappointment.

ACTION: Nominate to fill the vacancy.

Nominee: Huell Aekins

C. Minimum Housing Appeals Board – Alternate Member (1 Vacancy)

BACKGROUND: John Williams, former alternate member of this Board, was appointed as a regular member at our meeting on November 7, 2005. An alternate member replacement is needed.

ACTION: Nominate to fill the vacancy.

Nominee: Louis King

D. Southeastern Economic Development Commission (1 Vacancy)

BACKGROUND: Juanita Pilgrim has completed her first term on this Commission. She is eligible for reappointment.

ACTION: Nominate to fill the vacancy.

Nominee: Juanita Pilgrim

8. Appointments to Boards and Committees

MOTION: Commissioner Council moved to appoint the nominees in A-F.

SECOND: Commissioner King

VOTE: UNANIMOUS

A. Adult Care Home Community Advisory Committee (1 Vacancy)

Nominee: Stephanie L. Hodges

B. Board of Adjustment (1 Vacancy)

Nominee: Joseph M. Dykes

C. Library Board of Trustees (2 Vacancies)

Nominees: Fred D. Littlejohn
Susan Walters

D. Nursing Home Advisory Board (2 Vacancies)

Nominees: Peter A. Paoni
Pamela Suggs Story

E. Transportation Advisory Board (6 Vacancies)

Nominees:

County DSS Director/Designee:	Crystal Black
Mid-Carolina Council of Government/Designee:	Carolyn Tracy
DSS Work First Representative:	Ann Farrell
Workforce Development Center Designee:	Geneva Mixon
Aging Programs Representative:	Katherine Van Sickle
County Health Designee:	Sharon Stanley

F. Workforce Development Board (1 Vacancy)

Nominee: JoLeita Strickland Evans

9. Consideration of Request from Commissioner Baggett to Reconsider Action Regarding Case No. P05-79 at the October 17, 2005 Board of Commissioners Meeting.

BACKGROUND: Commissioner Baggett has requested the Board of Commissioners reconsider the rezoning of the John Koenig case in Eastover. Commissioner Baggett would like for the Board to consider rezoning the property R40. Mr. Baggett said the people in Eastover would rather live with the R40 rezoning than annexation by the City of Fayetteville. Mr. Koenig has agreed to withdraw his petition for annexation if the Board approves the R40 rezoning.

MOTION: Commissioner Baggett moved that the Board reconsider this case and send it back to the Planning Board for its consideration of straight R40.

SECOND: Commissioner King

DISCUSSION: Commissioner Edge traced the history of this case from 2004. Initially Mr. Koenig requested R10 rezoning, but agreed to accept R40 at the Planning Board meeting. When he appeared at the Commissioners meeting he pursued R30 rezoning. The majority of the Eastover population that attended the meeting seemed to want the rezoning denied. The Board of Commissioner denied the rezoning request. Mr. Koenig petitioned the City of Fayetteville for annexation. Mr. Koenig brought the case back to the Planning Board a year later. The Planning Board recommended R40CUD. The case came forward to the Board of Commissioners who approved the R40CUD. However, Mr. Koenig, did not accept the CUD (the new zoning ordinance adopted by the Board of Commissioners in June requires the petitioner to concur with the CUD). Mr. Koenig again petitioned the City of Fayetteville for annexation. Commissioner Edge said he could not support the request to reconsider this case as he felt the Board made the appropriate decision at its meeting in October. Chairman Henley expressed is displeasure with the City Council for considering the annexation request. Richard Wiggins, attorney for Mr. Koenig, said Mr. Koenig simply used the tools available to him to have the property rezoned. Chairman Henley said he would like to see the R40 with a CUD which would address storm water issues and lots no smaller than 40,000 square feet. The County Attorney noted that any CUD would have to be accepted by the petitioner.

VOTE: FAVOR: Commissioners Baggett, King, Henley, Council, Blackwell, and Wheatley

OPPOSED: Commissioner Edge

10. Closed Session: A. Personnel Matter Pursuant to NCGS 143.318.11(a)(6).

MOTION: Commissioner Council moved to go into Closed Session for the above noted matter.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

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

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Council moved to adjourn.

SECOND: Commissioner King

VOTE: UNANIMOUS

MEETING ADJOURNED: 9:45PM

Clerk to the Board