

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
DECEMBER 18, 2006, 6:45PM  
REGULAR/REZONING MEETING

PRESENT: Kenneth S. Edge, Chairman  
J. Breeden Blackwell, Vice Chairman  
Commissioner Jeannette M. Council  
Commissioner John T. Henley, Jr.  
Commissioner Billy R. King  
Commissioner Ed Melvin  
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, Planning/Inspections Director  
Marsha Fogle, Clerk to the Board  
Marie Colgan, Deputy Clerk to the Board

INVOCATION - Commissioner Breeden Blackwell

PLEDGE OF ALLEGIANCE – Noah and Eli Blashford

**PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM) – NO SPEAKERS**

**ADDITIONS TO AGENDA: Closed Session: Economic Development, Pursuant to NCGS 143-318.11(a)(4).**

**MOTION: Commissioner King moved to add the above item to the Agenda.**  
**SECOND: Commissioner Henley**  
**VOTE: UNANIMOUS**

1. Consent Agenda

**MOTION: Commissioner Henley moved to follow staff recommendations on the items on the Consent Agenda.**  
**SECOND: Commissioner King**  
**VOTE: UNANIMOUS**

A. Approval of minutes for the December 4, 2006 regular meeting.

ACTION: Approve

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

The Woods at Birch Creek Subdivision: Bardolino Drive

Worthington Subdivision: Falconbridge Road, Bramblegate Road,  
Clifton Drive, Sunpoint Drive, Colville Court

ACTION: Approve

C. Approval of Cumberland County Finance Committee Report and Recommendation:

1) ABC System Property Matter

BACKGROUND: The Finance Committee, at its meeting on December 7, 2006, considered a request from the ABC Board for an advance of funds of approximately \$380,000 to purchase land for a new ABC Store site in Hope Mills. In 2005, the Board of Commissioners approved a similar transaction for the construction of an ABC Store in Spring Lake. The ABC Board will repay the advance quarterly over a period of 15 years.

ACTION: The Finance Committee recommends approval of this transaction with comparable terms to the 2005 agreement.

D. Approval of Purchase of Used Rex Trash Compactor for Solid Waste Department.

BACKGROUND: The Solid Waste Department is requesting permission to purchase a 370 trash compactor to replace the Rex that caught fire last year. Road Machinery has a used machine for \$150,000; the cost of a new machine is \$505,090, which is now called a TC400. The Solid Waste Department will use money received in an insurance settlement in the amount of \$161,495 for the old Rex, to purchase the used Rex for \$150,000.

ACTION: Approve the purchase of the used REX Trash Compactor and approved associated budget revision (B07-195).

E. Approval of Sole Source Purchase for Solid Waste Department.

BACKGROUND: The Solid Waste Department is requesting approval of a Sole Source purchase for a trash compactor for use at the Ann Street Landfill. The compactor, a new Terex TC550 sells for \$621,806 (includes four year extended power train factory warranty and a fire suppression system). Road Machinery Services offers this piece of equipment. The reasons for recommending a Sole Source purchase are:

- It is the only trash compactor that has full width compaction in a single pass, providing for greater efficiency in compacting waste;
- Has proven to provide excellent waste density numbers; and
- Has an ergonomically designed seat with equal visibility in the forward and reverse directions (Terex is the only compactor that has this safer operating feature).

The purchase of this piece of equipment will make the landfill more efficient through standardization to minimize maintenance and repair costs.

**ACTION:** Approve the purchase from Road Machinery Services in the total amount of \$621,806.

- F. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – Lots 18-19 Sapona Park Map 1, Sec B, Cedar Creek Township; PIN 0445-69-5751.

**BACKGROUND:** This piece of property was acquired by tax foreclosure on or about February 14, 2006. The amount currently owed including interest and costs is \$5,955.72. Cumberland Christian Center, Inc. was the last and highest bidder offering to purchase the property for \$5,955.72 and has deposited \$595.58 in the Finance Office. The tax value of the property is \$3,000. No upset bids have been received.

**ACTION:** Accept the offer of Cumberland Christian Center Inc. and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- G. Approval of Amendment of Franchise Ordinance and Franchise Agreement for Shana B. Yi and Jae Yong Yi (Lee) to Provide Food Services at the DSS Building (2<sup>nd</sup> Reading).

**ACTION:** Approve the Second Reading. (Copy of the Franchise Ordinance may be found in the Franchise Ordinance Book in the Office of the Clerk to the Board of Commissioners)

- H. Approval of a Proclamation Proclaiming February 11, 2007 as “Education Sunday” in Cumberland County.

**BACKGROUND:** The Fayetteville Cumberland County Ministerial Council, Inc. requests the Board to adopt a Proclamation proclaiming February 11, 2007 “Education Sunday” in Cumberland County.

**ACTION:** Adopt the Proclamation

### PROCLAMATION

WHEREAS, the Fayetteville-Cumberland County Ministerial Council (FCCMC) is composed of local ministers who work for the betterment of the citizens in our county and surrounding areas; and

WHEREAS, a goal of the FCCMC is to promote Education Sunday on February 11, 2007; and

WHEREAS, all churches will unite in prayer for our students, educators, parents and administrators as well as for all others who work in the school system; and

WHEREAS, the FCCMC continually seeks avenues to help eliminate negatives such as gangs, drugs, and low expectation; and

WHEREAS, FCCMC celebrates and encourages the many achievements of its schools and students.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Cumberland County proclaims February 11, 2007 "EDUCATION SUNDAY" in Cumberland County and urges all citizens to take part in recognizing this important day.

I. Budget Revisions:

ACTION: Approve

(1) Tax Administration

Revision in the amount of \$3,045 to appropriate fund balance to pay Tax Management Associated for audits. (B07-186) **Funding Source – General Fund Fund Balance**

(2) Mental Health

Revision in the amount of \$363,000 to appropriate fund balance for developmental therapy services to children. (B07-189) **Funding Source – Mental Health Fund Balance**

(3) Social Services

Revision in the amount of \$209,936 to recognize additional federal funds for the crisis intervention program. (B07-190) **Funding Source- Federal**

(4) Wade Fire District

Revision in the amount of \$13,024 to re-budget FY2006 state grant for expenditures relating to right-of-way improvements and paving of the entrance to the Wade Community Fire Department. (B07-191) **Funding Source – Grant**

(5) Sheriff

- a. School Law Enforcement: Revision in the amount of \$150,000 to establish three School Resource Officer positions to serve in elementary schools per the request of the Board of Education. (B07-192) **Funding Source – Board of Education**
- b. Revision in the amount of \$32,500 to budget insurance settlements and funds from the sale of old motorcycles to purchase three new motorcycles. (B07-193) **Funding Source – Sale of Fixed Assets and Insurance Settlements**
- c. Revision in the total amount of \$70,650 to purchase a latent fingerprint computer and software using \$32,436 of State grant funds and fund balance of \$38,214. (B07-197) **Funding Source – State Grant and Fund Balance Appropriated**

(6) Parks and Recreation

Revision in the amount of \$70,000 to appropriate fund balance for additional equipment needed to complete the Eastover Central Recreation Center. (B07-188) **Funding Source – Parks and Recreation Fund Balance**

(7) School Capital Fund

Revision in the net amount of \$12,736,148 to budget lottery proceeds, reallocate sales tax and appropriate fund balance to fund capital expenditures. (B07-196 through B07-196B) **Funding Source – Lottery Proceeds, Sales Tax, and Fund Balance Appropriated**

2. Public Hearings

**Uncontested Cases**

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

**MOTION: Commissioner Wheatley moved to follow the Planning Board recommendations on the Uncontested Rezoning Cases (A-D)**

**SECOND: Commissioner Melvin**

**VOTE: UNANIMOUS**

Rezoning

- A. Case P06-82. The rezoning 2.24 acres from A1 to R40A, or to a more restrictive zoning district, at 6554 Oak Grove Church Road, owned by James E. Griffin and Rodney E. Griffin.

The Planning Board recommends approval of R40A.

- B. Case P06-84. The rezoning of 1.46 acres from RR to R10 (now R7.5), or to a more restrictive zoning district, located on the southeast side of Clinton Road, east of Bladen Circle, owned by Dennis J. and Julie A. Byrd.

The Planning Board recommends denial of R10 (now R7.5) and approval of R15.

- C. Case P06-85. The rezoning of 1.03 acres from R6A/CU to C(P), or to a more restrictive zoning district, at 2970 Cumberland Road, owned by Bruce D. and Rhonda H. Bright.

The Planning Board recommends approval of C(P).

- D. Case P06-86. The rezoning of .47 acres from R10 (now R7.5) to C1(P), or to a more restrictive zoning district at 4721 Camden Road, owned by Kacey Shupe.

The Planning Board recommends denial of C1(P) and approval of O&I(P).

Contested Cases

- E. Case P06-83. The rezoning of 3.0 acres from A1 to A1A, at 5116 Berry Tree Lane, owned by Chang Ye Thompson.

The Planning Board recommends denial of the A1A.

**SPEAKERS:** Franz Lohr – Mr. Lohr asked the Board to deny the rezoning request. He noted the water in the area is bad and the land won't support a septic tank.

**MOTION:** Commissioner Wheatley moved to follow the recommendation of the Planning Board and deny the rezoning request.

**SECOND:** Commissioner King

**VOTE: UNANIMOUS**

- F. Case P06-87. The rezoning of two parcels totaling 16.45 acres from A1 to R40, or to a more restrictive zoning district at 2602 and 2608 John McMillan Road owned by Robert J. Williams IV.

The Planning Board recommends denial of the R40 request.

SPEAKERS: Ray Santiago – Opposed to the rezoning. He noted flooding problems in the area and that the land could not sustain septic tanks.

**MOTION: Commissioner Council moved to follow the recommendation of the Planning Board and deny the rezoning request.**

**SECOND: Commissioner Wheatley**

**VOTE: UNANIMOUS**

### Withdrawn Case

**G. Case P06-75 \*\*\*This case has been withdrawn\*\*\***

### Other Public Hearings

H. Public Hearing on Request to Close a Portion of Sahara Place.

SPEAKERS: No Speakers

ACTION: Approve the Resolution closing a portion of Sahara Place

## RESOLUTION

WHEREAS, a petition has been submitted to the Cumberland County Board of Commissioners (the “Board”) by an adjoining landowner to close a portion of Sahara Place, 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 18<sup>th</sup> day of December, 2006, 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 G.S. 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 emergency vehicle access:

BEGINNING at a point being the SE corner of lot 27 as shown on that plat recorded in the Cumberland County Registry entitled Hummingbird Place Phase 1, Plat Book 114, Page 97 (Said point also being the NE corner of Sahara place, a 50 foot right-of-way as shown on said plat); thence with said right-of-way N 84 degrees 29'38"W 174.73 ft to a point in a curve to the right; thence with said curve N 39 degrees 39'38"W with a cord distance right-of-way; thence from said point S 5degrees 20'22"W 100 ft to a curve to the right; thence with said curve N 50 degrees 20'22"E with a cord distance of 35.36 ft and an arc of 39.28 ft to a point in the southern margin of Sahara Place right-of-way; thence with said right-of-way S 84 degrees 39'38' E 174.73 feet to appoint being the NW corner of Lot 26 as shown on said Plat; thence with the eastern right of Sahara Place N 5 degrees 20'23' E 50 feet to the BEGINNING.

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

**MOTION: Commissioner Blackwell moved to adopt the Resolution.**

**SECOND: Commissioner Melvin**

**VOTE: UNANIMOUS**

I. Minimum Housing Code Enforcement

1. Case Number: MH 4474-2005  
Property Owner: Luis R. Rivera  
Property Location: 6519 Celestial Pine Drive, Hope Mills, NC  
Parcel ID Number: 0432-41-8749

Affidavit of the Housing Inspector's Report before the Board of Commissioners

PROPERTY OWNER: Luis R. Rivera  
PROPERTY ADDRESS: 6519 Celestial Pine Drive, Hope Mills, NC  
TAX PARCEL IDENTIFICATION NUMBER: 0432-41-8749

SYNOPSIS: This property consists of a single wide mobile home that was inspected on September 12, 2006. (Note: This property has been in and out of violation for three years prior, this particular action began 9/12/06). All property owners and parties of interest were legally served with the Notice of Violations and afforded a hearing on October 18, 2006. The property owners did not attend the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises no later than November 17, 2006. The property owners and parties of interest were notified of the appeal process when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on December 8, 2006, no correction action has been made to the mobile home. The structure is presently vacant and unsecured., In its present state, the structure constitutes a fire, health and safety hazard. The estimated cost to repair this structure to a minimum standard for human habitation is \$17,000. The Assessor for Cumberland County has the mobile home presently valued at \$500 for salvageable materials.

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

**MOTION: Commissioner Council moved that the Board adopt the order and report of the Minimum Housing Inspector as the true facts in this case; that the property owner be**

**ordered to remove or demolish the dwelling within 14 days; that the Inspector be ordered to remove or demolish the dwelling if the owner fails to do so and impose a lien on the real property for the cost of such action; and direct the Clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record same in the Register of Deeds Office.**

**SECOND: Commissioner Blackwell**

**VOTE: UNANIMOUS**

2. Case Number: MH 4690-2005  
Property Owner: Mary Hills Troy  
Property Location: 2024 Memory Lane, Fayetteville, NC  
Parcel ID Number: 0443-11-2170

**AFFIDAVIT OF THE HOUSING INSPECTOR’S REPORT BEFORE THE BOARD:**

PROPERTY OWNER: Mary Hills Troy  
PROPERTY ADDRESS: 2024 Memory Lane, Fayetteville, NC  
TAX ID #: 0443-11-2170

SYNOPSIS: This property consists of a single wide mobile home destroyed by fire that was inspected on November 15, 2005. All property owners and parties of interest were legally served with the Notice of Violations and afforded a Hearing on February 1, 2006. The property owners did not attend the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises no later than March 12, 2006. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No Appeal was filed. Upon my visit to the property on December 8, 2006, no corrective action has been made to the mobile home. The structure is presently vacant and unsecured. In its present state, the structure constitutes a fire, health and safety hazard. The estimated cost to repair this structure to a minimum standard for human habitation is \$30,000. The assessor for Cumberland County has the mobile home presently valued at \$500 for salvageable materials.

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

Items of Business

3. Consideration of Rejection of Bid Offer and Withdrawal of Marsh Street Property from the Cumberland County Surplus Property Listing.

BACKGROUND: Earlier this year, the Board approved a listing of real property surplus to the needs of the County that had been acquired through foreclosure. One of those properties was the lot on Marsh Street (PIN 0437-88-1738). The County Attorney’s Office received a bid from Gihan Dibonaventura in the amount of \$5,025.94 for the lot, the amount of the County’s foreclosed taxes and costs. The tax value of the property is \$24,598, although the house on the property is in very poor condition and all windows have been boarded up. The lot is adjacent to the Ann Street Landfill. County Management and the County Attorney’s Office recommend rejection of the bid and that the County retain the property.

ACTION: Reject the offer to purchase and withdraw this piece of property from the county’s surplus property list. The property would be used as a buffer to the landfill on Ann Street.

Ms. Dibonaventura spoke and asked the Board to reconsider the rejection of the bid. She said her family wished to fix up the home and move into it.

Commission Blackwell noted the environmental issues that once plagued that area of town. He said he did not think it is an area in which one would want to raise a family.

Commissioner Council concurred with Commissioner Blackwell, noting the property has a long history of problems. She said the County made a mistake in putting it on the Surplus Property List.

**MOTION: Commissioner Blackwell moved to reject the bid offer and remove the property from the County's Surplus Property Listing. In addition, he asked that the County Attorney's office work with the family to see if there was another piece of county surplus property that might be suitable for a home for the family.**

**SECOND: Commissioner Council**

**VOTE: UNANIMOUS**

4. Consideration of Proposed School Funding Agreement.

**BACKGROUND:** The proposed school funding agreement was approved by the Board of Education at its meeting on December 12, 2006. The process of negotiating a new agreement has been on-going over a nine month period which began with a joint meeting of both boards on March 30, 2006. At this meeting, the County presented a statement of principles which has remained the basis for development of this agreement. The statement of principle is "the County believes the first issue to be addressed with regard to the continuation of the existing school funding formula is whether, as a matter of principle, the Board of Commissioners and School Board can agree that annual school funding increases should be AFFORDABLE and SUSTAINABLE in order to maintain the financial stability of the County without increasing the tax burden on property owners. The new agreement translates the appropriation to a rate equivalent of forty-four cents on the tax rate. The County will budget the school appropriation based upon projected growth. However, once the audit is complete and the actual property tax revenues are known, the school appropriation will be adjusted to reflect the actual revenues realized, and any under-appropriation due to budget estimates will be paid at that time to the Board of Education. Any adjustment required because of over-appropriation will result in a payment from the Board of Education. Additionally, language is included in the agreement for revaluation, Project Development Financing districts and additional funds for the operation of new schools.

**ACTION:** Approve the Agreement for the period of July 1, 2007 – June 30, 2011.

**MOTION: Commissioner Blackwell moved to approve the agreement.**

**SECOND: Commissioner King**

**VOTE: UNANIMOUS**

5. Consideration of Adoption of Board of Commissioners' 2007 Regular Meeting Dates.

**ACTION:** Adopt commissioners' regular meeting dates for 2007.

January 2	9:00AM	July	NO MEETINGS
January 16	6:45PM	August 6	9:00AM
February 5	9:00AM	August 20	6:45PM
February 20	6:45PM	Sept. 4	9:00AM
March 5	NO MEETING	Sept. 17	6:45PM
March 19	6:45PM	October 1	9:00AM
April 2	9:00AM	October 15	6:45PM
April 16	6:45PM	November 5	9:00AM
May 7	9:00AM	November 19	6:45PM
May 21	6:45PM	December 3	9:00AM
June 4	9:00AM	December 17	6:45PM
June 18	6:45PM		

**MOTION:** Commissioner Council moved to adopt the meeting dates as noted above.

**SECOND:** Commissioner Henley

**VOTE:** UNANIMOUS

6. Consideration of Designation of a Voting Delegate for the Legislative Goals Conference – January 11-12, 2007.

**ACTION:** Appoint a voting delegate

**MOTION:** Commissioner Blackwell moved to appoint Chairman Kenneth Edge as the voting delegate.

**SECOND:** Commissioner Henley

**VOTE:** UNANIMOUS

7. Nominations to Boards and Committees

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

**BACKGROUND:** Kristin Sharp, appointed on October 16, 2006, has declined the appointment. In addition, Linda Brownlee-Jones resigned.

**ACTION:** Make nominations to fill the two vacancies noted above.

**Nominees:** NO NOMINATIONS WERE MADE

- B. Air Quality Stakeholders Committee (1 Vacancy)

**BACKGROUND:** The Mayor of the City of Fayetteville recommends that Councilman Keith Bates be appointed to serve as the City's representative.

Nominee: Keith Bates

C. Cumberland County Home and Community Care Block Grant Committee  
(6 Vacancies)

The Cumberland County Home & Community Care Block Grant Committee has the following vacancies:

Older Consumer: Bettie Carroll completed her second term. Elma Jorgensen has been recommended to fill the vacancy. Caren Hosmer – resigned. Kristine Wagner has been recommended to fill the vacancy. Janie Lucas has completed her first term and is eligible for reappointment.

Aging Service Providers: Judy Dawkins – completed her first term and is eligible for reappointment. Patricia Edwards has completed her first term and is eligible for reappointment.

Elected Official: Ethel Clark has completed her first term and does not wish to be reappointed. Richard Higgins is recommended to fill the vacancy.

Nominees: Elma Jorgensen (Older Consumer)  
Kristine Wagner to replace Caren Hosmer  
Janie Lucas (reappointment)  
Judy Dawkins (reappointment)  
Patricia Edwards (reappointment)  
Richard Higgins (Elected Official)

D. Mental Health Board (2 Vacancies)

BACKGROUND: The Mental Health Board has the following vacancies:

Individual with management/business expertise: Robin Imperial resigned. Michael Boose has been recommended to fill the vacancy.

Individual with financial expertise (new classification based on statute change): Craig Wilkins resigned. Willie Cooper has been recommended to fill the vacancy.

Nominees: Michael Boose (Individual with management/business expertise)  
Liliana Parker (Individual with management/business expertise)  
Willie Cooper (individual with financial expertise)

8. Appointments to Boards and Committees

A. ABC Board (2 Vacancies)

Nominees: Stephen Horne

Valarie Wynne-Hall  
Landis Chavis

VOTING: Stephen Horne: Unanimous  
Valarie Wynn-Hall: Commissioners King, Henley, Blackwell, Edge  
and Council  
Landis Chavis: Commissioners Melvin and Wheatley

B. Nursing Home Advisory (1 Vacancy)

Nominee: Edgar F. Merritt

9. Closed Session: A. Attorney-Client Matters  
Pursuant to NCGS 143.318(a)(3).  
Special Operations Expo & Conventions vs. Reed  
Elsevier, Cumberland County Superior Court  
B. Economic Development Matters  
Pursuant to NCGS 143-318.11(a)(4)

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

**SECOND: Commissioner King**

**VOTE: UNANIMOUS**

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

**SECOND: Commissioner Melvin**

**VOTE: UNANIMOUS**

**MEETING ADJOURNED: 8:50PM**

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**Clerk to the Board**