

**CUMBERLAND COUNTY BOARD OF COMMISSIONERS
COURTHOUSE – ROOM 118
JANUARY 17, 2006 (TUESDAY) – 6:45 PM
REGULAR/REZONING MEETING**

PRESENT: Billy R. King, Chairman
Kenneth Edge, Vice Chairman
Commissioner Talmage Baggett
Commissioner Breeden Blackwell
Commissioner Jeannette Council
Commissioner John T. Henley
Commissioner Diane Wheatley
James Martin, County Manager
Juanita Pilgrim, Assistant County Manager
Cliff Spiller, Assistant County Manager
Amy Cannon, Assistant County Manager
Grainger Barrett, County Attorney
Sara VanderClute, Public Information Officer
Ann Hymes, Deputy Clerk

INVOCATION - Chairman Billy King

PLEDGE OF ALLEGIANCE – Quitman M. Starks, 5th Grade, Ferguson Easley School

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

SPEAKER: Brian Irving, 1713 Veanna Drive, Fayetteville, NC

Mr. Irving addressed Agenda Item 3: Consideration of Recommendation of the Board of Elections to Purchase New Voting Machines that are Certified for Use in North Carolina. He provided a handout, Cost Comparison of DRE vs. Optical Scan Voting Machines for Cumberland County, prepared by Justin Moore, Duke University. Mr. Irving is a member of the Libertarian Party and believes the best voting option is to use optical scanners and paper printed ballots. He added that optical scanners are less expensive and preferred by handicapped voters.

Addition to the Agenda

Add Item 2.I.: Public Hearing on Request to Close a Portion of Kent Road

MOTION: Commissioner Blackwell moved to add the above item to the agenda and to approve the Consent Agenda.

VOTE: UNANIMOUS

1. Consent Agenda

A. Approval of minutes for the January 3, 2006 regular meeting.

ACTION: Approve

B. Approval of Change Order No. 1 for Animal Control Center and Sheriff's Training Center Sitework Project.

BACKGROUND: A status report on the sitework for the Animal Control and Sheriff's Training Center was presented to the Facilities Committee in December. The Committee was informed that the project team was negotiating a change order with the grading contractor to prepare the site for the Sheriff's Driver Training Pad. Since there were insufficient funds to accept the alternate bid for the Drivers Training Pad under the general construction contract, the County is looking for another means to accomplish this work. The plan is to undertake the grading work as a change order to the sitework contract and, when additional funds become available, do the paving as a separate project. Change Order No. 1, for Autry Grading Company in the amount of \$62,241.67, is for the grading and preparation of the subbase for the Sheriff's Driver Training Pad. The Change Order includes an additional \$135,299 for the grading work for the Drivers

Training Pad, and a deduction of \$73,057.33 for reconciliation of the actual quantities versus bid quantities of the work items in the original contract. The revised contract amount will be \$872,933.57. There is sufficient money in the Sheriff's Department Drug Forfeiture Fund balance to pay the cost of this change order. There are additional construction administration and geotechnical/materials testing costs associated with this work. Moorman, Kizer & Reitzel, Inc., the project engineer, requests an increase of \$10,555 in its engineering fees for construction administration and construction staking services. Froehling & Robertson, Inc. is providing geotechnical services for the project. The County Engineer requests \$5,000 be budgeted for geotechnical/materials testing services.

ACTION: Approve Change Order No. 1 for Autry Grading in the amount of \$62,241.67 for the Animal Control Center and Sheriff's Training Sitework Project and revise the total contract amount to \$872,933.57; approve the request for additional engineering fees in the amount of \$10,555; budget \$5,000 for geotechnical/materials testing services for the Sheriff's Driver Training Pad; and approve the associated budget revision.

C. Budget Revisions:

ACTION: Approve

(1) General Government Other

Revision in the amount of \$2,580 to rebudget grant funds not spent in FY2005. (B06-144) **Funding Source – Grant and General Fund - Fund Balance**

(2) Fire Districts

a. Stoney Point – Revision in the amount of \$100 to budget for unanticipated refunds to taxpayers. (B06-222) **Funding Source – Stoney Point Tax District**

b. Special Fire District – Revision in the amount of \$100 to budget for unanticipated refunds to taxpayers. (B06-223) **Funding Source – Special Fire Tax District**

(3) Cooperative Extension

Revision in the amount of \$1,050 to reallocate fuel expenditures to purchase fuel for the recently purchased activity bus. (B06-225 and B06-225A) **Funding Source - Reallocation of Budgeted Expenditures**

(4) Social Services

a. Revision in the amount of \$21,040 to recognize additional Day Care Administrative funds to contract for temporary personnel. (B06-228) **Funding Source – Federal and State**

b. Revision in the amount of \$50,755 to recognize additional state funding for crisis intervention. (B06-229) **Funding Source – State**

c. Social Services Other – Revision in the amount of \$2,670,592 to recognize additional revenue from the Division of Child Development for child and Smart Start day care. (B06-230) **Funding Source – Federal and State**

(5) Sheriff

Revision in the amount of \$3,500 to recognize Juvenile Justice and Delinquency Prevention Grant from the state to provide gang violence and other crime prevention activities. (B06-240) **Funding Source – State**

(6) Health

School Health - Revision in the amount of \$8,500 to recognize additional revenue from the Cumberland County Board of Education for school nurses. (B06-227) **Funding Source – Cumberland County Board of Education**

(7) Library

a. Revision in the amount of \$54,189 to recognize additional state funding to: create a new Library Associate I position, reclassify a Library Associate I to Associate II, upgrade an Office Support III position from part-time to full-time, and purchase a van for Mobile Outreach service. (B06-231) **Funding Source – State**

b. Library Grants - Revision in the amount of \$3,600 to recognize additional E-Rate reimbursements. (B06-232) **Funding Source – Other**

c. Library Grants – Revision in the amount of \$21,000 to recognize Gates Foundation Grant to replace computers in the Headquarters Computer Training Lab. (B06-233) **Funding Source – Grant**

(8) Workforce Development National Emergency Grant

a. National Emergency Grant - Revision in the amount of \$1,206,200 to recognize additional grant funding. (B06-234) **Funding Source - Grant**

b. Disaster Relief (Hurricane Katrina) – Revision in the amount of \$40,775 to establish a new organization to provide relief to citizens who have relocated to the area due to Hurricane Katrina. (B06-235) **Funding Source - Grant**

(9) Mental Health

a. Smart Start - Revision in the amount of \$12,307 to recognize additional state funding and fees. (B06-236) **Funding Source – State and Fees**

b. Alcohol Drug, Women - Revision in the amount of \$2,450 to reallocate budgeted expenditures. (B06-237) **Funding Source – Reallocation of Budgeted Expenditures**

c. Partial Hospitalization – Revision in the amount of \$60,000 to appropriate fund balance to comply with the North Carolina Personnel

Commission’s decision to reinstate an employee and pay salaries in arrears. (B06-238) **Funding Source – Fund Balance**

2. Public Hearings

Uncontested Cases

Rezoning

Upon finding the 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 Uncontested Cases, A-D.

SECOND: Commissioner Blackwell

Speaker: Lori Epler, representing the engineers for the proposed developers in Cases A and B, explained the developers have not yet purchased the property and they have several concerns. She requested that Cases A and B be deferred until the concerns can be worked out.

MOTION: Commissioner Edge amended the motion to defer Cases A and B for 30 days, and to follow the recommendation of the Planning Board on the Uncontested Cases, C and D.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

- A. Case P05-89. The rezoning of a 9.69 acre portion of a 75.68 acre tract from R10 to R5A, or to a more restrictive zoning district, on the south side of Hope Mills Bypass, northwest of Camden Road, owned by Katherine McGeachy Ward, Ann Warren , Joseph Neil, et. al.
- B. Case P05-90. The rezoning of a 10.41 acre portion of a 75.68 acre tract from R10 to C(P), or to a more restrictive zoning district, at the north and west quadrants of Hope Mills Bypass and Camden Road, owned by Katherine McGeachy Ward, Ann Warren, Joseph Neil, et. al.
- C. Case P05-92. The rezoning of 2.18 acres from A1 to A1A, south of Roebud Road, east of Magnolia Church Road, owned by William T. Mobley, Jr.
- D. Case P05-95. The rezoning of 4.57 acres from A1 to R20, or to a more restrictive zoning district, located north of Sand Hill Road, west of Smith Road, owned by McRent, LLC.

Contested Cases

- E. Case P05-93. The rezoning of 3.0 acres from A1 to R40A, or to a more restrictive zoning district, at 7618 Rhodes Pond Road, owned by Jerome F. Honeycutt.

The Planning Board recommends denying the R40A Residential District and approving the A1A Agricultural District.

Commissioner Baggett stated that the petitioner is a distant relative and he has provided legal advice in the past and therefore he requests that he be allowed to abstain from voting on this case.

MOTION: Commissioner Blackwell moved that Commissioner Baggett be allowed to abstain on Case P05-93.

SECOND: Commissioner Council

VOTE: UNANIMOUS

Speakers:

Jerome Honeycutt, owner, spoke in favor of the request. He asked the Board to approve R40A to allow his mobile home to remain where it currently is placed. He said he was under the impression that he had an occupancy permit obtained from the Health Department. He completed the underpinning, without it being inspected, to protect the insulation. It would be a great financial burden if he has to move the mobile home 18 feet.

James Moore, who is married to Jerome Honeycutt's mother, said he supported the request.

The Board reviewed Mr. Honeycutt's occupancy permit. The form was a permit for a septic tank, not occupancy. Commissioner Henley said the form would be confusing to someone who does not deal with it on a daily basis.

MOTION: Commissioner Blackwell moved to accept the recommendation of the Planning Board and deny the R40A Residential District.

The motion died for lack of a second. Discussion continued on the occupancy form.

MOTION: Commissioner Edge moved to accept the recommendation of the Planning Board and deny the R40A Residential District and approve the A1A Agricultural District.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

F. Case P05-96. The rezoning of 2.79 acres from A1 to R40A, or to a more restrictive zoning district, at 1480 Port Richie Lane, owned by James and Patricia Sessoms.

The Planning Board recommends denying the R40A Residential District.

Speakers: None.

MOTION: Commissioner Blackwell moved to follow the recommendation of the Planning Board and deny the R40A Residential District.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

G. Case P05-98. The rezoning of 8.46 acres from A1 to R20, or to a more restrictive zoning district, located northeast of Ramsey Street, west of West Reeves Bridge Road, owned by Seymore Taylor.

The Planning Board recommends denying the R30 Residential District and approving the R40 Residential District.

Speakers:

Arnell Bobbitt explained that she was representing the owner, Seymore Taylor. She spoke in favor of the request. Her intention is to divide the property for her immediate family, allowing them to live near each other. She amended the rezoning request to R20, which was her original request.

Nick Angelone, an adjacent property owner, said his main concern is with the environment. He had difficulty getting the land to perk and had a drainage problem. He said the more houses in the area, the more problems there will be. He is in favor of rezoning the property to R40 or leaving it A1.

Stuart Clarke, an adjacent property owner, objected to the rezoning request. He would like to keep the character of the area the same. He requested that the petition to rezone be denied.

Thomas Neville, an adjacent property owner, stated that the area has been rural for a long time and that is the essential characteristic of this area. He urged the Board to vote in opposition of R20 and in favor of R40.

Al Wheatley, an adjacent property owner, spoke in opposition to the request. He said this is essentially a rural area. The request made is for almost an urban type development. He asked for approval of the R40 residential zoning.

MOTION: Commissioner Baggett moved to accept the Planning Board recommendation to deny the R20 Residential District and to approve the R40 Residential District.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

Conditional Use District

H. Case P05-94. The rezoning of four parcels totaling 93.45 acres from A1 to R20/DD/CUD, or to a more restrictive zoning district, located north of Sand Hill Road, west of Smith Road, owned by McRent, LLC.

The Planning Board recommends approval of R20/DD/CUD Residential/Density Development/Conditional Use District.

Speakers: None

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

MOTION: Commissioner Blackwell moved to approve the R20/DD/CUD Residential/Density Development/Conditional Use District.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board of Commissioners find that this conditional use permit application, if developed as proposed, will not materially endanger the public health and safety, and 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.

SECOND: Commissioner Council

VOTE: UNANIMOUS

I. Public Hearing on Request to Close A Portion of Kent Road

BACKGROUND: The property owners adjacent to both sides of Kent Road have petitioned that the portion of Kent Road located on the western margin of Ireland Drive in Pierces Mill Township be closed. The Board has called a Public Hearing to consider the request. The Board may close the road if it finds that no person will be denied reasonable egress or ingress to their property.

ACTION: Hold the Public Hearing. If the Board makes the required statutory finding and decides to close this portion of Kent Road, adopt the following resolution and direct the staff to record it in the Cumberland County Registry.

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 Kent Road in Cumberland County;

WHEREAS, following proper notice, the Board held a public hearing on the question of the closing of such street on the 17th day of January, 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 North Carolina 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:

The portion of Kent Road located on the western margin of Ireland Drive.

BEGINNING at the North East corner of Lot 9 Block F Welmar Heights Section 5 as recorded in Plat Book 25, Page 16 in the Cumberland County Registry; thence with the northern line of Lots 9 through 18 of said plat South 77 degrees 43 minutes West 727.07 feet to the Northern corner of Lot 18; thence North 10 degrees 40 minutes East 65.16 feet to the South West corner of an Unnumbered Lot on said Plat; thence with the northern right-of-way of Kent Road also being the southern line of a Unnumbered Lot and lots 20 through 28 North 77 degrees 43 minutes 701.67 feet to said point being the South East corner of lot 28 in said plat; thence South 12 degrees 17 minutes East 60 feet to the point of BEGINNING.

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

Speakers:

Presley E. Moore, adjacent property owner, expressed concern that if the road is closed, there will not be a dedicated right-of-way with sufficient home sites on the road for Department of Transportation maintenance.

Robert Mason, petitioner, owns property on both sides of Kent Road. The area he is requesting be closed would not deny anyone access to their property. He wishes to close the right-way from his property to the end of the road.

MOTION: Commissioner Baggett moved to close a portion of Kent Road as presented, adopt the resolution and direct the staff to record it in the Cumberland County Registry.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

Items of Business

3. Consideration of Recommendation of the Board of Elections to Purchase New Voting Machines that are Certified for Use in North Carolina.

BACKGROUND: The Help America Vote Act of 2002 (HAVA), Section 301, requires that all precincts have ADA compliant voting equipment; SL 2005-323 added voter verifiable ballots and paper records for audit. The State Board of Elections issued an RFP on October 11, 2005 and the bidding process began on November 4, 2005. Three companies were approved for demonstrations and two have since withdrawn from the process. This leaves Elections Systems and Software as the only vendor certified to sell voting equipment in North Carolina. The equipment currently in use in Cumberland County was decertified on December 9, 2005 by the State Board of Elections. The Cumberland County Board of Elections expects to receive a grant in the amount of \$911,378. It is still corresponding with the vendor to confirm all equipment needed is included and the final cost of the equipment.

ACTION: Purchase the voting equipment from Election Systems and Software and approve the budget revision.

Terri Robertson, Board of Elections Director, provided a brief presentation and requested the Board to approve the purchase of the new voting machines as the current voting machines have been decertified by the State Board of Elections. Commissioner Blackwell commented that the N.C. Association of County Commissioners tried to delay the implementation of the new law but was unsuccessful in their efforts.

MOTION: Commissioner Wheatley moved to follow the Board of Elections request and purchase new voting machines that are certified for use in Cumberland County and approve the budget revision.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

4. Consideration of Request to Reschedule the Planning Retreat Previously Scheduled for February 10, 2006.

BACKGROUND: The Board set the date of February 10, 2006 as the date for the Planning Retreat based on Commissioner Henley's schedule. He has discovered that his scheduled trip does affect the February 10 date and would like for the Board to reconsider holding the date for the Planning Retreat on February 17, 2006.

ACTION: Discuss Commissioner Henley's request to change the Planning Retreat from February 10 to February 17, 2006.

Commissioner Henley explained that he has a schedule conflict on February 10th and respectfully asked the Board to reschedule the Planning Retreat to February 17th. The Board agreed to change the date. The Planning Retreat will be held at Fayetteville State University.

5. Nominations to Boards and Committees

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

BACKGROUND: Linda Juma was appointed in August 2005. She has not attended a meeting and has not responded to letters, notice of meeting announcements or telephone calls. Mid-Carolina Area Agency on Aging recommends she be replaced. Elaine Terrill was appointed in September 2005. She respectfully declined her appointment due to a conflict of interest.

Nominees: Tiffany Adams
Gary Collier

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

BACKGROUND: Margarita Dostall has completed her first term and is eligible for reappointment.

Nominee: Margarita Dostall

- C. Local Emergency Planning Committee (1 Vacancy)

BACKGROUND: Eugene Hines, Health Representative, retired. Jane Stevens, Supervisor of the Environmental Health Division of the Public Health Department, is recommended to fill this vacancy.

Nominee: Jane Stevens

- D. Nursing Home Advisory Board (2 Vacancies)

BACKGROUND: Hervenna Pannell has completed her Initial term and is eligible for reappointment to serve a full three year term.

Nominee: Hervenna Pannell
Beth Pate

6. Closed Session A) Attorney-Client Matter
Pursuant to NCGS 143-318.11(a)(3),
Crain vs. Butler, US District Court –
Eastern District of North Carolina.
- B) Personnel Matter Pursuant
Pursuant to NCGS 143-318.11(a)(6).

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

SECOND: Commissioner Edge

VOTE: UNANIMOUS

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

SECOND: Commissioner Baggett

VOTE: UNANIMOUS

MOTION: Commissioner Council moved to adjourn.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

MEETING ADJOURNED: 9:55 PM

Deputy Clerk to the Board