

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
AUGUST 20, 2007, 6:45PM  
REGULAR/REZONING MEETING

PRESENT: Chairman Kenneth S. Edge  
Commissioner Jeannette M. Council  
Commissioner John T. Henley, Jr.  
Commissioner Edward G. Melvin  
Commissioner Billy R. King  
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  
Sara VanderClute, PIO  
Marsha Fogle, Clerk  
Tom Lloyd, Director, Planning/Inspections

INVOCATION - Commissioner Breeden Blackwell, Vice-Chairman

PLEDGE OF ALLEGIANCE – Gracyn Martin, Kindergarten, Bladen Primary School

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

1. Walter Murphy – Mr. Murphy urged the Board not to consider the land transfer tax as an option to replace Medicaid funding. He noted the military would get hurt most by this tax.

**Special Recognition:**

Cumberland County Cares Award – George Quigley  
William Johnstone

Recognition of Retired County Employee: Jackie Strother, Cumberland County Mental Health

Recognition of Outgoing Board Member: Mr. Stanley Johnson, ABC Board

**ADDITION TO AGENDA: Consideration of placing on the ballot in November a local option sales tax.**

MOTION: Commissioner Henley moved to add this item to the agenda.

SECOND: Commissioner Blackwell

VOTE: FAVOR: Commissioners Henley, Blackwell, Edge, Council, Wheatley, Melvin  
OPPOSED: Commissioner King

NOTE: It is the policy of the Board that additions to the agenda must be by a unanimous vote; therefore, this item is not added.

**1. Public Hearings**

**Uncontested Cases**

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

MOTION: Commissioner Blackwell moved that the Board follow the recommendation of the Planning Board on Cases A,B,D,E,G,H,I,&J.

SECOND: Commissioner Council

VOTE: UNANIMOUS

- A. Case P02-04. Amending a portion of the permit for a previously approved R10/Conditional Use Overlay, revisiting construction of a public right-of-way for an area reserved from the original approval, on approximately 527 acres, located at the southeast quadrant of Chicken Foot Road and Sand Hill Roads, owned by Birchwood Farms, Inc.

The Planning Board recommends approval of the R10 Conditional Use District Permit.

- B. Case P07-31. The rezoning of 2.71 acres from A1 to R30A, or to a more restrictive zoning district, at 1188 Cypress Lakes Road, owned by John L. McArthur, Jr.

The Planning Board recommends approval of the R30 rezoning request.

- C. Case P07-47. The rezoning of two portions of a 20.26 acre tract, consisting of 9.43 acres and 4.20 acres from M2 to R7.5, or to a more restricting zoning district, located south of Church Street, east of Freedom Lane, owned by Gillis & Gillis, Inc. THIS CASE BECAME A CONTESTED CASE.

The Planning Board recommends approval of R7.5 rezoning request.

Chairman Edge opened the Public Hearing.

Speakers: Joe Gillis, petitioner. Mr. Gillis said he is planning to divide the property into 61 lots. He said there would be walking trails and undeveloped areas. Access to the property is via Church Street.

Lisa Waring: Opposed to the rezoning. Some of the issues are: property is in the floodplain, the Town of Hope Mills may want to restore Hope Mills Lake #2 and there would be a potential for flooding in this area, if the Lake is restored this area would provide a green space and hydraulic power; could people who build in this area secure flood insurance; the Hope Mills Planning Board member was not aware of the zero lot-line building. Ms. Waring read a letter from the Mayor of the Town of Hope Mills asking the Board of Commissioners not to do anything that would negate the possible opportunity to restore Hope Mills Lake #2. Ms. Waring said she had spoken to State Representative Brisson regarding declaring this lake as a water reservoir.

Joe Gillis – rebuttal. Mr. Gillis noted that he has taken the utmost care in planning this subdivision. He said he will protect the wetlands. He also noted he has been working with the Corp of Engineers on this property.

The Public Hearing was closed.

The Board discussed the issues above and specifically the process the Planning Board uses to notify Planning Board members of its cases as well as how it notifies municipalities when cases may affect it.

MOTION: Commissioner Council moved to send this case back to the Planning Board for reconsideration.

SECOND: Commissioner Wheatley

DISCUSSION: Commissioner Henley inquired how long the lake bed has been dry. The response was “since 1972”. He also inquired as to whether the Hope Mills Board actually took a formal vote regarding the letter that came from the Mayor noting its stand against any development now or in the future that would negatively impact the ability to restore Hope Mills Lake #2. In regard to the flood plain issue, Henley noted if it is not in the flood plain, development should not be an issue.

VOTE: FAVOR: Commissioners Edge, Henley, Blackwell, Council, Melvin, Wheatley  
OPPOSED: Commissioner King

- D. Case P07-48. The rezoning of a .92 acre portion of a 5.5 acre tract from C(P) to O&I(P), or to a more restrictive zoning district, at 3551 Dunn Road, owned by Eastover Development Partners, LLC.

The Planning Board recommends approval of the O&I rezoning request.

- E. Case P07-49. The rezoning of a .50 acre portion of a 1.33 acre tract from R10 to C(P), or to a more restrictive zoning district, at 3209 Cedar Creek Road, owned by Richard and Laura R. King.

The Planning Board recommends approval of the C(P) rezoning request.

- F. Case P07-51. The rezoning of three (3) parcels totaling 6.71 acres from A1A to R40A, or to a more restrictive zoning district, located on the west side of Hawkins Road, east of McBryde Street, owned by Mary A. Wilson.

The Planning Board recommends approval of the applicant's amended request to A1. THIS CASE IS DEFERRED DUE TO A DEATH IN THE FAMILY

- G. Case P07-57. The rezoning of .33 acres from R6 to C(P), or to a more restrictive zoning district, located on the south side of Owen Drive, east of Cope Street, owned by Edmon and Kathryn Monsour.

The Planning Board recommends approval of the C(P) rezoning request.

- H. Case P07-58. The rezoning of one parcel and a portion of a second parcel totaling 14.99 acres from O&I(P) and R10 to R5, or to a more restrictive zoning district, located at the north quadrant of Ramsey Street and McCloskey Road, owned by James and Eva Singletary and Tonya Clark, Trustee.

The Planning Board recommends approval of R5A.

- I. Case P07-61. The rezoning of a 21.86 acre portion of a 51.33 acre tract from RR to O&I(P), or to a more restrictive zoning district, located on the north side of Clinton Road, west of Mobius Road, owned by Cumberland County.

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

#### **Contested Cases**

- J. Case P07-45. The rezoning of a 2.68 acre portion of a 49.87 acre tract from A1 to R15, or to a more restrictive zoning district, located east of Lancelot Court, north of Palestine Road, owned by John C. Culbreth. THIS CASE WAS CONSIDERED AS AN UNCONTESTED CASE.

The Planning Board recommends denial of R15 and approval of R20.

- K. Case P07-59. The rezoning of 1.38 acres from R6A to C(P), or to a more restrictive zoning district, at 2670 John Smith Road, owned by Dean H. & Dawn Smelcer, Jr.

The Planning Board recommends denial of the C(P) rezoning request.

The Chairman opened the public hearing.

Speakers:

Harold Smelcer: Mr. Smelcer said he wanted to put his office in this home. He said he had cleared the front of the house and that there is a 15-20 foot buffer at the back. He will also be storing some of his equipment at the site; he is building a fence to block the view of the equipment.

Judith Riley – Opposed to rezoning. Traffic issues and a small children in the area.

Bill Maynard – Concerned about the noise if this property is rezoned

Pam Bingham – Lives next door. Area is a natural habitat. Petitioner has already destroyed many trees. Deny the rezoning.

Anthony Bingham – Petitioner has already placed materials for his business (fencing) on the property. Deny the rezoning.

The public hearing was closed.

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

SECOND: Chairman Edge

VOTE: UNANIMOUS

### **Conditional Use Permit Cases**

- L. Case P07-22. The rezoning of 2.2 acres from A1 to R20, or to a more restrictive zoning district, at 871 Remely Court, owned by Brian Daigneault.

The Planning Board recommends denial of R40 conditional use district.

MOTION: Commissioner Council moved to send this case back to the Planning Board for consideration of a revised Conditional Use Application to incorporate a group development.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- M. Case P07-44. The rezoning of 2.7 +/- acres from R5 to C(P), or to a more restrictive zoning district, located at the west quadrant of Murchison Road and Charmain Street, owned by Albert and Shirley Norton.

The Planning Board recommends approval of the C(P) conditional use district and permit with conditions as noted in the Planning Board minutes.

MOTION: Commissioner Council moved that the Board finds that this Conditional Use District Application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest and that it be approved, subject to exclusion of the uses set forth in the Planning staff memorandum.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

MOTION: Commissioner Council moved that the Board of Commissioners finds that this conditional use permit application, if completed as proposed and subject to the conditions recommended by the Planning Board 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 Melvin

VOTE: UNANIMOUS

- N. Case P07-56. The rezoning of .94 acres from C1(P) and R6A to C(P), or to a more restrictive zoning district, at 2972 Dunn Road, owned by Vivian Lewis, et al.

The Planning Board recommends approval of the C(P) conditional use district and permit with conditions as noted in the Planning Board minutes.

MOTION: Commissioner Council moved that the Board finds that this Conditional Use District Application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest and that it be approved, subject to exclusion of the uses set forth in the Planning staff memorandum.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

MOTION: Commissioner Council moved that the Board of Commissioners finds that this conditional use permit application, if completed as proposed and subject to the conditions recommended by the Planning Board 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 Melvin

VOTE: UNANIMOUS

### **Zoning Cases Withdrawn by Applicants**

- O. Case P07-54. The rezoning of 20.54 acres from RR to R7.5, or to a more restrictive zoning district, located on the east side of Hummingbird Place, south of Three Wood Drive, owned by Castle Hayne Homes, LLC. NO ACTION NEEDED.

## **2. Consent Agenda**

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

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

- A. Approval of minutes for the August 6, 2007 regular meeting.

ACTION: Approve

- B. Approval of the FY08 Charge to the Tax Collector.

BACKGROUND: In accordance with NCGS 105-321(B), before delivering the tax receipts to the Tax Collector in any given year, the Board of Commissioners shall adopt and enter into its minutes an order directing the Tax Collector to collect the taxes charged in the tax records and receipts. (see attachment A)

ACTION: Approve the levy and charge the Collector with the responsibility to collect the taxes.

- C. Approval of Ordinance Assessing Property for the Cost of Demolition:

1)	Case Number:	MH 4917-2006
	Property Owners:	Paul P. & Angela A. Virtue, Jr.
	Property Location:	2334 George Owen Road, Fayetteville, NC
	Parcel Identification Number:	0405-84-0477
	Cost of Demolition:	\$2,200

ACTION: Approve (Copy of Ordinance may be found in the Minimum Housing Ordinance Book)

- D. Approval of Franchise Ordinance and Franchise Agreement to Carolina Residential Services, Inc. to Provide Food Services at Mental Health Authority's Bradford Avenue Facility (2<sup>nd</sup> Reading).

ACTION: Approve Second Reading (Copy of Franchise Ordinance may be found in the Franchise Ordinance Book)

- E. Approval of Report and Recommendation of the Cumberland County Finance Committee Regarding Sheriff's Request for Positions.

BACKGROUND: The Finance Committee met on August 2, 2007 and received a request from the Sheriff's Office for two new detective positions to handle felony crimes against persons in Spring Lake. This request is a result of a court order from District Court Judge Beth Keever that the Sheriff's Office take over the investigation of felony crimes against persons in Spring Lake. Her order was based on the District Attorney's assessment of the workload, expertise and capabilities of the Spring Lake Police Department. The order is effective October 1, 2007, although the Sheriff's Office has been handling juvenile cases out of Spring Lake and Hope Mills since this spring, and is in the process of assuming investigation of homicides from Spring Lake. The Board of Commissioners reinstated 5 deputy positions in the FY08 budget that had been frozen in the FY07 budget. The Sheriff has designated three of these positions as Deputy III, positions to assist in the investigations in Spring Lake.

The Finance Committee voted unanimously to ask the Sheriff to designate one more of the five positions that he receive in the current fiscal year as a Deputy III Detection position and that the County approve one new Deputy III position. (Note: this will give the Sheriff a total of 5 Deputy III Detective positions)

ACTION: Follow the recommendation of the Finance Committee.

- F. Approval of Report and Recommendation of the Cumberland County Facilities Committee.

- 1) Bid Award for Courthouse Cooling Tower Replacement Project.

BACKGROUND: Bids were received on July 19, 2007 for replacement of the Courthouse cooling towers. The scope of the work includes removal of the existing cooling towers from the Courthouse roof, installation of new energy efficient cooling towers, piping, controls and ancillary equipment. The low bid was submitted by Johnson Controls, Inc., in the amount of \$405,767.00. In addition to the bid amount a 2.5% contingency in the amount of \$10,150 is recommended for the project. There are sufficient monies in the Designated Fund Balance (9905) to fund the project.

The County Facilities Committee met on August 14, 2007 and recommends:

Accept the bids and award the contract to Johnson Controls, Inc., in the amount of \$405,767.00;

Establish a project contingency in the amount of \$10,150 for justifiable changes in the scope of the project recommended by the project engineer and approve by the County Manager; and

Approve associated budget revision – (B08-022).

- G. Budget Revisions:

ACTION: Approve

- (1) Sheriff's Office/General Government Other

Revision in the amount of \$56,591 to reallocate budgeted expenditures to fund the upgrade of a Deputy I position to Deputy III and to establish a new Deputy III position. These two positions will be assigned to the major crimes division in the Sheriff's Office. (B08-023 and B07-23A) **Funding Source – Reallocation of Budgeted Expenditures**

- (2) Social Services

Revision in the amount of \$455,415 to budget funding for Work First Demo Grant. (B08-024) **Funding Source – Federal**

(3) Health

Revision in the amount of \$136,665 to budget funding received for South Central Partnership for Public Health Incubator Project. (B08-026) **Funding Source – State**

(4) Day Reporting

Revision in the amount of \$255 reducing the budget to the state grant. (B08-027) **Funding Source - State**

REGULAR AGENDA ITEMS

3. Consideration of Recommendation of the Eastover Sanitary District Board for the Board of Commissioners to Appoint Mrs. Helen Crumpler to the Eastover Sanitary District Board.

ACTION: Appoint Helen Crumpler to the Eastover Sanitary District Board to fill the vacancy created by the resignation of Benny Pearce (term to expire December 2009). Ms. Crumpler will serve until the next election, or until her successor is elected and qualified.

MOTION: Commissioner Blackwell moved to appoint Helen Crumpler as recommended.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

Note: Ms. Crumpler will serve until the next election if the State Board of Elections re-0-ens the filing period, or until December 2009, which ever comes first. (NCGS 130A-54).

4. Consideration of Referral of the Town of Eastover Request for a Municipal Influence Area.

BACKGROUND: The Town of Eastover has requested through its Attorney that the Board of Commissioners consider granting to Eastover a Municipal Influence Area (MIA).

ACTION: Management recommends that this matter be referred to the 2030 Planning Committee and thereafter to the Cumberland County Joint Planning Board for recommendations to the Board of Commissioners.

MOTION: Commissioner Blackwell moved to refer this to the 2030 Planning Committee and thereafter to the Joint Planning Board for recommendations and then to the Board of Commissioners for final action.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

5. Consideration of Board of Education's Request for Acquisition of Real Property.

BACKGROUND: The Board of Education approved the acquisition of approximately 91 acres of real property at its Board meeting on August 14, 2007, as a site for a planned elementary school. The property is located on Century Circle in the Rockfish Township. The Board of Education requests approval of the Board of Commissioners in order to proceed with the acquisition of real property from the Gillis family. The total cost is approximately \$2,707,500 which the school system has budgeted using sales tax and lottery proceeds. The Option Agreement identifies a 78.91 acre tract of land. The property to be purchased is partial acreage of two tracts of land. A recent survey provided the correct acreage of the property which is 90.93 acres.

ACTION: Consider the Board of Education's request for property acquisition as noted above.

MOTION: Commissioner Blackwell moved to approve.

SECOND: Commissioner Council

VOTE: UNANIMOUS

6. Nominations to Boards and Committees

A. Criminal Justice Partnership Advisory Board (1 Vacancy)

BACKGROUND: Lt. Michael Calfee, (police chief or designee position) will be unable to continue to serve in this slot. The Criminal Justice Board has recommended Captain David Houpp to replace him.

Nominee: Capt. David Houpp

B. Cumberland County Finance Corporation and Cumberland County Industrial Facilities & Pollution Control Financing Authority (2 Vacancies)

BACKGROUND: Bob Gleaton and Annette Billie have completed their first terms on this Board and are both eligible for reappointment.

Nominees: Bob Gleaton (reappointment)

Annette Billie (reappointment)

C. Local Emergency Planning Committee (1 Vacancy)

BACKGROUND: Kenny Currie, Emergency Management Representative, has completed his first term on this Committee and is eligible for reappointment.

Nominee: Kenny Currie (reappointment)

D. Senior Citizens Advisory Board (2 Vacancies)

BACKGROUND: E.C. Modlin and Daneen Morton-Tarpley have completed their first terms on this Board and are eligible for reappointment.

Nominees: E.C. Modlin (reappointment)

Daneen Morton-Tarpley (reappointment)

7. Appointments to Boards and Committees

MOTION: Commissioner Blackwell moved to appoint the nominees in A-F by acclamation.

SECOND: Commissioner Council

VOTE: UNANIMOUS

A. Air Quality Stakeholders' Committee (1 Vacancy)

Nominee: Town of Spring Lake Stakeholder: Mayor Pro-Tem James O'Garra

ACTION: Appoint Nominee

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

Nominee: At-Large Representative: Henry Berry

ACTION: Appoint Nominee

C. Cumberland County Emergency Planning Committee (1 Vacancy)

Nominee: Law Enforcement Representative: Sgt. Robert Kidd



ACTION: Appoint Nominee

D. Nursing Home Advisory Board (4 Vacancies)

Nominees: Tiffany Adams  
Clyde Hammond  
Tom Lloyd  
Teresa McNeill

ACTION: Appoint Nominees

E. Tourism Development Authority (1 Vacancy)

Nominee: Hotel/Motel Under 100 Rooms Representative: Jimmy Keefe

ACTION: Appoint Nominee

F. Workforce Development Board (1 Vacancy)

Nominee: Education: Dr. Joe Mullis

ACTION: Appoint Nominee

**RECESS THE BOARD OF COMMISSIONERS' REGULAR MEETING.**

Chairman Edge recessed the Board of Commissioners meeting.

**CONVENE THE KELLY HILLS/SLOCOMB ROAD WATER & SEWER DISTRICT GOVERNING BOARD MEETING (SEE SEPARATE AGENDA)**

Chairman Edge convened the Kelly Hills/Slocomb Road Water & Sewer District Governing Board. See Minutes in the Water and Sewer District Board Book.

The Meeting was adjourned.

Chairman Edge reconvened the Board of Commissioners' meeting.

8. Closed Session:
- A) Real Property Matter(s)  
Pursuant to NCGS 143-318.11(a)(5).  
PIN#'s: 0436-21-2993, 0436-21-3919, 0436-21-5976
  - B) Attorney Client Matter(s)  
Pursuant to NCGS 143-318.11(a)(3).  
Cumberland County Ann Street Landfill vs. Dept.  
of Environmental and Natural Resources

MOTION: Commissioner King moved to go into Closed Session for the above noted matters.  
SECOND: Commissioner Wheatley  
VOTE: UNANIMOUS

MOTION: Commissioner Melvin moved to go back into Open Session.  
SECOND: Commissioner Henley  
VOTE: UNANIMOUS  
MEETING ADJOURNED: 8:52PM.