

CUMBERLAND COUTY BOARD OF COMMISSIONERS  
MARCH 19, 2007, 6:45PM  
REGULAR/REZONING MEETING

PRESENT: Chairman Kenneth Edge  
Vice Chairman Breeden Blackwell  
Commissioner Jeannette Council  
Commissioner Ed Melvin  
Commissioner John T. Henley, Jr.  
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  
Tom Lloyd, Planning/Inspections Director  
Marsha Fogle, Clerk  
Marie Colgan, Deputy Clerk

INVOCATION - Commissioner Billy King

PLEDGE OF ALLEGIANCE – Kathryn M. Kelly- Van Story Hills Elementary School

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

SPEAKERS: None

Presentation of Cumberland County Cares Award: Pamela Boose

Recognition of Cumberland County Retired Employees:

Barbara J. Hood – Department of Social Services  
Lynn Renee Pridgen – Cumberland County Public Library  
Charles Weaver – Department of Social Services

AMENDMENTS TO THE AGENDA:

DELETE: Item 1C  
PULL ITEM 1D2 AND L4 FROM CONSENT AGENDA

1. Consent Agenda

MOTION: Commissioner Council moved to approve the Consent Agenda items, except Item 1C which was deleted from the agenda. Approval includes Item 1D2. See L4 for action on that item.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

- A. Approval of minutes for the February 20, 2007 regular meeting and the February 23, 2007 special meeting.

ACTION: Approve

- B. Approval of Municipal Agreement with NCDOT for the Extension of SR 3935, Production Drive.

BACKGROUND: As part of the industrial inducement agreement with Nitta Gelatin, The County agreed to extend Production Drive. NCDOT has agreed to participate in the cost of the road construction project in an amount not to exceed \$60,000. Under the terms of the agreement, the County is responsible for procuring all necessary right-of-way, environmental and construction permits, and to construct the road improvements in accordance with NCDOT standards. NCDOT will reimburse the County the construction costs in an amount not to exceed \$60,000 upon satisfactory completion of the project and submission of the required environmental permit documentation. The work was completed in October 2006 at a cost of \$172,467.10.

ACTION: Approve the Municipal Agreement with NCDOT for the extension of SR3935 Production Drive.

- C. Approval of Cumberland County Policy Committee Report and Recommendation Regarding Law Enforcement Promotion Policy.

THIS ITEM REMOVED FROM AGENDA.

- D. Approval of Cumberland County Facilities Report and Recommendation:
  - 1) Consideration of Conversion of Fourth Floor Lobby Into Office Space for District Attorney.

BACKGROUND: The District Attorney has asked that the County convert the fourth floor courthouse lobby area into office space (2 offices) because of an increase of staff. Approximate cost of the conversion: \$8,000. The Facilities Committee recommends approval of the conversion and the associated budget revision ( B07-284/284A)

ACTION: Approve as recommended by the Facilities Committee.

- 2) Architectural Services for New Public Health Facility – Calloway, Johnson, Moore & West (CJM&W) Contract Amendment.

**BACKGROUND:** The County Facilities Committee at its meeting on March 13, 2007 considered a request to amend the existing agreement with CJM&W to provide architectural services on the new Public Health Facility Project. The Committee directed staff to re-negotiate the fee proposal and present the information to the Board of Commissioners for its consideration at its meeting on March 19, 2007. The fee was re-negotiated and came in at \$100,000 less than initially quoted, making the cost not to exceed \$1,466,300. Initially, the proposed fee had been \$1,566,300. The proposed schedule anticipates a March 20, 2007 start date with completion of the construction documents by December 21, 2007, award of construction contract by March 3, 2008 and completion of construction by July 31, 2009.

**ACTION:** Endorse the staff's rationale for amending the current agreement for architectural services for the new facility as opposed to initiating a new professional services procurement process, approve an amendment to the existing agreement with CJM&W not to exceed \$1,466,300 and approve the associated budget revision (B07-292&292A)

- E. Approval of Cumberland County Mental Health Authority's Local Business Plan 2007-2010.

**BACKGROUND:** The Cumberland County Local Management Entity (LME) developed a Local Business Plan (2007-2010) for the Cumberland County Mental Health Authority. A full version of the document may be viewed in the Mental Health Authority or on the Mental Health website. The plan includes the following major Strategic Objectives:

- maintain fiscal stability for the LME;
- evaluate the crisis continuum of services and develop local and/or regional services;
- expand the school system initiative related to System of Care;
- analyze on an ongoing basis gaps and needs in the community continuum of care;
- develop formalized relationships with primary care physicians and other to expand access to psychiatric care for the community;
- analyze LME processes and modify areas that will strengthen LME functions;
- enhance resources available to the provider community from the LME that will strengthen and right-size the provider community;
- expand opportunities for consumer and family involvement in all aspects of care;;
- operationalize a management information system that will streamline LME functions;
- enhance housing, transportation and employment opportunities through strengthening existing community collaborations and identifying other partnerships; and

- identify internal & external factors that will assist the LME in measuring the effectiveness of the public system of services in meeting consumer desired outcomes.

**ACTION:** Accept and approve the Cumberland County Local Management Entity Local Business Plan 2007-2010 for the Cumberland County Mental Health Authority.

- F. Approval of Transfer of Van from Cumberland County Community Development to The Salvation Army.

**BACKGROUND:** Cumberland County Community Development served as the grantee of The Care Center Domestic Violence Program which is funded through HUD’s Supportive Housing Program. A van was purchased for transportation services for the clients. Effective February 1, 2007, the Salvation Army became the grantee and will fully administer the Care Center Program. Due to the change in grantee, the van (2000 Dodge Caravan, VIN 2B4GP44G3YR612510) must be transferred to the Salvation Army.

**ACTION:** Approve the transfer.

- G. Approval of a Cumberland County Health Department Delinquent Accounts to be Turned Over to Collection Agency.

**BACKGROUND:** The Board of Health at its meeting on February 20, 2007 approved writing off \$28,506.32 as bad debts and turning them over to the contracted collection agency.

**ACTION:** Approve

- H. Approval of Addition of New Vaccines to Health Department Fee Schedule.

**BACKGROUND:** The Board of Health at its meeting on February 20, 2007, approved adding the HPV and Zostavax (Shingles) vaccine to the fee schedule. The State will provide these vaccines at no cost for a specific population only. Patients outside of the targeted population will be charged a flat fee based on cost, inclusive of an administration fee. Medicaid does not currently cover either vaccine.

**FEE SCHEDULE**

<u>VACCINE</u>	<u>HEALTH DEPT COST</u>	<u>PROPOSED FEE</u>
HPV	\$ 120.00	\$ 150.00
Zostavax	145.35	175.00

ACTION: Approve

- I. Approval of Change Order #1 (Final) – W. J. Jackson Construction Company, Gillespie Street Parking Lot Improvements.

BACKGROUND: Change Order #1(Final): Amount: \$11,964.75 – for additional work on the Gillespie Street Parking Lot Improvement Project. (Adjusts the bid quantity for the aggregate base course, the asphalt pavement, sod in lawn areas and construction of a concrete flume). The funding will come from the project contingency (\$6,000) and the balance (\$5,964.75) will come from the General Fund Maintenance & Repair fund balance.

ACTION: Approve the Change Order, increase the contract amount to \$131,837.75, and approve the associated budget revision (B07-274).

- J. Approval of Correction of November 6, 2006 Board of Commissioner Minutes.

BACKGROUND: The County Finance committee, at its meeting on March 1, 2007, corrected its Minutes of October 12, 2006. The item corrected dealt with a request from the Fire Chiefs' Association for the county to fund a match for a grant for radios. The Board of Commissioners took action on this item on November 6, 2006 based on the Finance Committee's recommendation. As a result of action taken by the by the Finance Committee to correct its Minutes of October 12, 2006, the Board of Commissioners should also take action to correct its Minutes of November 6, 2006 as follows:

CORRECTION:

- the County will pay ½ of the match from its General Fund;
- the County will advance the remaining ½ from the General Fund, to be repaid from the 40% share that the Fire Chiefs' Association receives from the Special Fire District Tax over a five-year period at no interest cost.

ACTION: Approve

- K. Approval of FY 2008 Application for Continuation of Implementation Funding for the Day Reporting Center of the Criminal Justice System Support Unit.

BACKGROUND: The Criminal Justice Partnership Advisory Board recommends submission of an Application for Continuation of Implementation Funding for the Day Reporting Center in the amount of \$230,231.00 for FY08.

ACTION: Approve the application.

L. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure:

1. .46 Acre Emily McPherson Land (Located Off Campground Church Road, Off Morganton Road) – PIN: 0408-70-0893; Seventy First Township.

BACKGROUND: Value of the property: \$10,625.00  
Bid: \$21,961.50 (for two pieces, items L1 and L2)

2. Lot 6, Moses Evans Estate Division (1.7 Acs) (Located on River Road, Off Beard and Middle Roads) – PIN: 0449-78-7859; Eastover Township.

BACKGROUND: Value of the property: \$12,568.00  
Bid: \$21,961.50 (for two pieces, items L2 and L1, see above)

3. Lot 1, Manchester Park Sec. 1 (Located on the Corners of E. Manchester Road and Brinkley Drive) – PIN: 0513-20-8357; Manchester Township.

BACKGROUND: Value of the property: \$7,500  
Bid: \$5,767.38

4. 0.51 Ac, McGill Ld (Located on Tine Road, Off Raeford Road, Off Rim Road) – PIN: 9487-41-9319; Seventy First Township.

BACKGROUND: Tax Value: \$17,956.00  
Bid: \$3,246.49

Commissioner Council noted that this property has only been on the surplus list a few months and the bid received is far less than the tax value of the property. She suggested that the bid be rejected in hopes that the county would receive a higher bid for this property.

MOTION: Commissioner King moved to reject the bid and put this property back on the surplus list.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

M. Approval of Ordinance Assessing Property for the Cost of Demolition:

- 1) Case Number: MH 4474-2005  
Property Owner: Luis R. Rivera  
Property Location: 6519 Celestial Pine Dr, Hope Mills, NC  
Parcel Identification Number: 0432-41-8749  
Cost of Demolition: \$1,800

ACTION: Approve Ordinance assessing property for the cost of demolition. (Ordinance may be found in the Minimum Housing Ordinance Book)

- N. Approval of Eastover Central Recreation Center - Architectural Reimbursement - Tom Goetz, Architect and Change Order #2- M & E Contracting.

BACKGROUND: The 13,000 square foot Eastover Central Recreation Center is nearing completion. The architectural fee was \$112,000; however, it did not include reimbursable expenses. The cost for a topographical study and printing bid/construction documents totals \$4,182.23. In addition, a change order is needed to cover additional costs necessary to complete the project - \$20,246.48.

ACTION: Approve the additional architect reimbursements in the amount of \$4,182.23 and Change Order #2 in the amount of \$20,246.68. This will increase the contract amount from \$1,987,257.78 to \$2,007,504.26. Money is available in the project contingency to pay for both of these requests.

- O. Approval of Approval of a Resolution Allowing Richmond County, North Carolina to Join the Southeastern Economic Development Commission.

ACTION: Approve Resolution

## RESOLUTION

WHEREAS, the counties of Bladen, Brunswick, Columbus, Cumberland, Harnett, Hoke, New Hanover, Pender, Robeson, Sampson, and Scotland joined together to mutually assist one another in the various endeavors of these counties in their economic development; and

WHEREAS, the County of Richmond has officially submitted a resolution to join the Southeastern Economic Development Commission, with said resolution being adopted on February 5, 2007; and

WHEREAS, the Executive Director of the Southeastern Economic Development Commission has recommended the membership of Richmond County in the Commission as beneficial to the Commission and its existing membership; and

WHEREAS, it is necessary for the membership of the Commission to approve the membership of new members, and the Commissioners of Cumberland County accept and congratulate Richmond County on its request for membership.

BE IT THEREFORE RESOLVED that the Commissioners of Cumberland County, sitting in regular session of this date, do invite and hereby allow the membership

of Richmond County into the Southeastern Economic Development Commission as a member county with all the rights and appurtenances thereof.

- P. Approval of a Proclamation Proclaiming the Weeks of March 12-23, 2007 as “Arbor Weeks” and March 31, 2007 as “Arbor Day” in Cumberland County.

ACTION: Approve Proclamation

#### PROCLAMATION

WHEREAS, the County of Cumberland recognizes the importance of trees to the economic, aesthetic and ecological well-being of our community; and

WHEREAS, it is recognized that planting and maintaining healthy trees in our ever-changing society are both desirable and necessary; and

WHEREAS, the Cape Fear Botanical Garden is a leader in the encouragement of environmental stewardship and is assisting with the planting of trees at our schools by the students; and

WHEREAS, Cumberland County Cooperative Extension is a community partner with the Cape Fear Botanical Garden in an effort to restore our trees; and

WHEREAS, individuals can act in this county to improve the environment by planting trees and ensuring that these trees are protected and receive proper maintenance in the years ahead.

NOW, THEREFORE, the Board of Commissioners of Cumberland County proclaims the weeks of march 12-23, 2007 “Arbor Weeks and Saturday, March 31, 2007 Arbor Day in Cumberland County”; and

BE IT FURTHERE RESOLVED that the board urges all citizens to take an active part to ensure our community has a better quality of life by providing a clean environment with more trees.

- Q. Approval of a Proclamation Proclaiming April as Fair Housing Month in Cumberland County.

ACTION: Approve Proclamation

#### PROCLAMATION

WHEREAS, April 2007 marks the 39<sup>th</sup> anniversary of the Federal Fair Housing Act of 1968 and the 24<sup>th</sup> anniversary of the State Fair Housing Act; and

WHEREAS, the State Fair Housing Act of 1983 and the Federal Fair Housing Act of 1986 prohibit discrimination in housing because of “race, color, religion, sex, national origin, handicapping condition and familial status”; and

WHEREAS, an important concern for Cumberland County individuals and families is the availability of decent and affordable housing; and

WHEREAS, Cumberland County supports the efforts of local governments, fair housing organizations, concerned citizens, and the housing industry to strive toward promoting broader housing choice in Cumberland County and promoting understanding of the State Fair Housing Act and the Federal Fair Housing Act.

NOW, THEREFORE, the Board of Commissioners proclaim April, 2007 “FAIR HOUSING MONTH” in Cumberland County.

R. Budget Revisions:

ACTION: Approve

(1) Kelly Hills Water and Sewer

Revision in the amount of \$19,960 to adjust revenues to reflect the actual PWC Facility Investment fees used on the project. (B07-266) **Funding Source – Fees**

(2) Water and Sewer

Revision in the amount of \$37,260 to budget actual PWC Facility Investment Fees used on the project. (B07-267) **Funding Source – Fees**

(3) Library Grants

Revision in the amount of \$24,480 to budget additional e-rate funds to upgrade computer capacity and extend the wireless network for public use. (B07-269) **Funding Source – Grant**

(4) Health

a. Health Promotion - Revision in the amount of \$7,200 to budget for the “Sisters Informing Sisters on the Transmission of Aids” Grant. (B07-263) **Funding Source – Grant**

b. Tuberculosis Project – Revision in the amount of \$1,972 to budget reduction in state funding. (B07-264) **Funding Source – State**

- c. Environmental Health – Revision in the amount of \$35,709 to budget additional state funding. (B07-272) **Funding Source – State**
  - d. Maternal Care Coordination Program/Administration – Revision in the amount of \$35,000 to reallocate revenue and expenditures to fund operations for the remainder of the fiscal year. (B07-281 and B07-281A) **Funding Source – Reallocation of Budgeted Revenue and Expenditures**
- (5) US DOT 104(f) Grant/Unallocated Revenue
- Revision in the amount of \$56,315 to budget a prior period adjustment. (B07-273 and B07-273A) **Funding Source – Other**
- (6) Mental Health
- a. Smart Start - Revision in the amount of \$19,609 to budget additional state funding to move a part-time position from Periodic Outpatient Services into this cost center. (B07-215) **Funding Source – State**
  - b. Developmental Disability Contracts - Revision to adjust state revenue and fund balance appropriated. (B07-278) **Funding Source – State & Fund Balance Appropriated**
  - c. Case Management – Revision in the amount of \$66,667 to budget additional state funding and reduce fees. (B07-279) **Funding Source – State and Fees**
  - d. Alternative Family Living – Revision in the amount of \$229,000 to budget additional Medicaid fees due to unanticipated increase in billing. (B07-280) **Funding Source – Fees**
- (7) General Government Other/Special Fire District Fund
- Revision in the amount of \$240,000 to appropriate fund balance to transfer funds to the Special Fire District Fund as a match for a Federal grant to purchase 800 MHz radio equipment. One-half of the match (\$120,000) will be a direct grant to the Special Fire District and the other one-half (\$120,000) will represent a loan to the Fire Chiefs’ Association to be repaid over a five year period. (B07-268 and B07-268A) **Funding Source – General Fund Fund Balance**

(8) Sheriff

Revision in the amount of \$15,608 to recognize insurance settlement to purchase a replacement vehicle. (B07-282) **Funding Source – Insurance Settlement**

2. Presentation on the Proposed E-85, Inc. Ethanol Project.

A slide presentation was presented by Dale Potz, Technology Manager with E85, Inc. made a presentation about the proposed project. Some of the highlights of the presentation are as follows:

- Delaware corporation located in Kingston, Washington
- Senior Vice President is Mark Dassel
- The company projects 10 ethanol facilities within the next 2 years
- Vogelbusch technology will be used in this project
- Materials produced at the facility will be anhydrous ethanol, denatured ethanol and DDGS
- The company will employ 40-50 people at a salary of \$18 to \$25 per hour
- The E-85 project will be a minor emitter for air quality permit purposes
- The E-85 plant intends to have internship and coop programs with the school system
- Wetlands will be preserved
- Environmental system would eliminate 98.8% of organic compounds
- Environmental systems are 99% efficient
- Cyclones are 90% efficient
- Scrubbers are 98.8% efficient
- Flare stack is 99% efficient
- Thermal oxidizer is 98.8% efficient
- Noise levels at the property line are expected to be less than 65 db
- The company will work with local fire & emergency response officials to develop a comprehensive response action plan for any type of incident
- The company will work with the Department of Homeland Security to determine security guidelines
- Environmentally ethanol lowers the harmful carbon monoxide emissions from vehicles by 30% and reduces carbon dioxide emissions from vehicles by 27%
- Ethanol is produced from field corn, not sweet corn, consumed by humans
- Anticipated construction of the plant to start in mid 2007 and be completed in late 2008 or early 2009
- Plant operation is anticipated to begin in late 2008 or early 2009

Some questions that were posed by commissioners were:

- Will the company provide a letter of credit to the county – ANSWER – yes
- Will the letter of credit be irrevocable – ANSWER - yes

- Will dust be a problem – ANSWER – The company will pave the road into the site keeping dust at a minimum. They will use water trucks and sweepers also. If dust from the operation is an issue, DENR will require them to correct the matter
- Any air quality issues – ANSWER – DENR, (the Division of Air Quality) has issued a permit to the company on 2/5/07 (good for two years) DENR is required to do an annual inspection, but anticipates being on-site more often
- Odor – ANSWER – minimal odor is expected
- Safety issues – ANSWER - the plant will hire a firm to provide safety procedures for operations
- Transportation issues (railway) – ANSWER – Norfolk Southern is prepared to provide safe passage of material going to and from the company – good safety record
- Is E-85 a “shell” corporation – ANSWER – No – currently setting up office – the officers travel a great deal and have not felt a physical office would serve any purpose up to this time
- Where will corn come from – ANSWER – Ohio and Indiana
- How will the corn usage for this plant affect other industries – ANSWER – it won't

### 3. Public Hearings

- A. Public Hearing on the proposed Incentive Agreement for the E-85, Inc. Ethanol Project.

Chairman Edge announced that no action would be taken on the matter tonight.

Grainger Barrett, County Attorney, briefly described the proposed incentive agreement.

Chairman Edge opened the public hearing.

#### SPEAKERS:

Gary Cushman, Plant Manager, Goodyear, - supports the project – great opportunity for the county

Dave Wilson – Opposed – concerned about odor and the company's limited experience with this technology

Sharon Valentine – Opposed – questioned the viability of ethanol plants

Denny Shaffer – Opposed – concerned about the inexperience of company officials and does not think a facility of this type should go in an urban area – better suited for an unpopulated area

Bill Martin – CCBC – supports the plant – good fit for Cumberland County. Company has funds, technology and knowledge and will build a state of the art facility. Will bring \$2 million in payroll to the area

Kirk deViere – CCBC – good investment

Floyd Shorter (Pres. Of Fayetteville Business & Professional League) – supports the project

Bobby Hurst – CCBC – good fit for Cumberland County – no negative impacts

Vernell Thomas – Bethune Drive (near the proposed site) – concerned about the dust, odor, traffic and any emissions that could cause illness

Phil Edge – (farmer) – supports the E-85 project – good for the economy – suggests the plant have its own fire department and haz mat team

Linda Devore (made trip to Nebraska to see a plant) – Odor is a concern – smells like a brewery – concerned that schools are in the area of the plant site (within 5 miles) – Opposed to the project

Michael Becker – concerned the company does not have a physical address, no valid telephone number or e-mail address, thinks sugar cane would be a more efficient product for producing ethanol

John Lauby, Jr. – supports the project – will there be local distribution of the ethanol?

Pat Leahy – same concerns as Wilson and Valentine – also ethanol is not cost effective for vehicles

The Public Hearing was closed.

Other questions/comments made or posed to the company from the Board of Commissioners:

- What is the footprint of the plant – ANSWER – about 37 acres
- Will the plant mitigate effects with berms or tree barriers where the plant property touches residential areas – ANSWER – yes
- If you don't get the incentive money will you still bring the plant to the county – ANSWER – It is important that the community support the project – Mr. Dassel said the plant may not come without the incentives – that decision would be made by the owner
- Regarding trip to Nebraska to visit an ethanol plant to Bill Martin, CCBC, Mr. Martin said it was difficult for him to detect ethanol related odors because there were other plants in the same area
- Commissioner Wheatley said the odor from the plants in Nebraska was not “overwhelming” – she also noted the group did not go inside the plant. The temperature there was in the 30s and 40s so it is difficult to tell if odor would be a problem with the much higher temperatures in Fayetteville
- Linda Devore said the plant will smell – noted concern that an odor could affect BRAC relocations to another county. She noted there are not ethanol plants in urban areas. Does not think 40 jobs is a good tradeoff for the incentive money.

- Juanita Pilgrim, Deputy County Manager, noted that both of the sites visited were in industrial areas, with no homes around them. She indicated there was an odor and questioned how it would be with 80 degree temperatures. She noted the importance of paving the road into the proposed site to keep down the dust.

### **Uncontested Cases**

#### **Rezoning**

- B. Case P07-11. The rezoning of 2.52 acres from A1 to R40A, or to a more restrictive zoning district, at 4942 Tabor Church Road, owned by Juan A. and Angela R. Martinez.

The Planning Board recommends approval of R40A.

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

MOTION: Commissioner King moved to approve R40A.  
SECOND: Commissioner Melvin  
VOTE: UNANIMOUS

### **Contested Cases**

- C. Case P07-13. The rezoning of three parcels totaling 79.88 acres from R10 to MXD/CUD and Permit, or to a more restrictive zoning district, at 5819, 5933 and 6007 Camden Road, owned by Thomas L. Bradford, Clifford C and Sharon H. McCullough, Jr. and Marjorie R. Hanks.

The Planning Board recommended approval with conditions.

MOTION: Commissioner Blackwell moved that the Board finds this conditional use district overlay application is reasonable, neither arbitrary nor unduly discriminatory and in the public interest and that it be approved.  
SECOND: Commissioner Henley  
VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved that the Board finds that this conditional use district overlay permit application, if completed as proposed, with conditions as agreed upon, 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, 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 with conditions as recommended by the Planning Board and with one additional condition which is “the developer must install a 10 foot wide tree planting

buffer along with a fence along the easternmost line of the lower portion of the commercial area on the east side of the overall development plan (area marked on file copy of the site plan)". The applicant consented to the conditions of approval, including the additional condition.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

- D. Case P07-01. The rezoning of four parcels totaling 8.47 +/- acres from R40 to R20, or to a more restrictive zoning district, located on the northwest side of Ramsey Street, east of W. Reeves Bridge Road, owned by Arnell Bobbitt.

The Planning Board recommends denial of the rezoning request.

Speakers:

Ms. Arnell Bobbitt – petitioner. Ms. Bobbitt noted she has built a house on the property for her personal use. The other lots may be used for family members but also as an investment. She noted other R20 rezonings in the area and said she too should be allowed to have her property rezoned to R20.

Mr. Thomas Neville – Opposed to the rezoning. Concerned about septic tank issues, and changing the character of the area. Also concerned that the petitioner will put a daycare on the property. Traffic also a concern.

Nick Angelone – Opposed to the rezoning. Concerned about septic tank problems.

Keith Collier (9662 Ramsey Street) – Opposed to the rezoning. Lives directly across from the site. Rezoning to R20 would change the rural character of the area. Traffic a concern.

Ellen Farr (9844 West Reeves Bridge Rd.) – Opposed to rezoning. Concerned about septic tank problems, water runoff, more traffic in the area and “overgrowth” in the area.

Seymour Taylor – Mr. Taylor said he sold the property to Ms. Bobbitt. He is opposed to the rezoning noting concerns about decreasing property values and sewer problems. He is concerned about how the property will be used.

Al Wheatley – Opposed to rezoning. Concerned about erosion issues. Ms. Bobbit’s house has been on the property for a year - water line just installed.

Leo Rubenstahl – Opposed to rezoning. Lives across the street. Water line installed, but not covered. Traffic problems. Lots of accidents on the 401.

Arnell Bobbitt – Rebuttal - Daycare should not be a issue and Board of Adjustment would have to approve. There are no problems with septic tank, water line just installed.

As far as traffic problems – one ingress and egress from this property for 10-12 vehicles would be better than 10-12 driveways along 401.

Commissioner King said there was no good compelling reason why the R20 should not be approved.

MOTION: Commissioner King moved to approve R20.

SECOND: Commissioner Council

**SUBSTITUTE**

MOTION: Commissioner Melvin moved to deny the rezoning as recommended by the Planning Board.

SECOND: Commissioner Wheatley

DISCUSSION: Commissioner King inquired as to whether or not Commissioner Wheatley has a conflict of interest, as her husband spoke in opposition to the rezoning.

The County Attorney reviewed the law relative to conflict of interest and bias. He noted that because this was a legislative re-zoning issue, and not a conditional use re-zoning, that is a quasi-judicial decision, Commissioner Wheatley could vote unless the decision would have an immediate, direct financial impact on her. He also noted, however, that the appearance of a conflict could prompt someone to abstain from voting on a matter.

COMMISSIONER WHEATLEY WITHDREW HER SECOND TO THE MOTION AND SAID SHE WOULD RECUSE HERSELF FROM VOTING ON THIS MATTER.

SECOND: Chairman Edge

VOTE: FAVOR: Commissioners Melvin, Blackwell and Edge

**SUBSTITUTE**

MOTION: Commissioner Henley moved to approve R30.

SECOND: Commissioner King

VOTE: FAVOR: Commissioners Henley, King, Council

OPPOSED: Commissioners Edge, Melvin, Blackwell

**VOTE ON ORIGINAL**

MOTION: FAVOR: Commissioners King, Council

OPPOSED: Commissioners Henley, Blackwell, Melvin, Edge

- E. Case P06-79. The rezoning of two parcels totaling 68.12 acres from A1 to R20, or to a more restrictive zoning district, at 2835 John McMillan Road, owned by Lawrence C. and Phillip C. Smith.

The petitioner on the case asked that the case be delayed until the April 16 meeting because of illness of the petitioner.

MOTION: Commissioner Melvin moved to defer this case to the April 16 meeting.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

**Other Public Hearings**

F. Public Hearing on Request to Close a Portion of an Unnamed Street Between Rachel Road and Tractor Road.

BACKGROUND: A public hearing was held. No speakers.

The Board may close the street if it finds that no person will be denied reasonable egress or ingress to his/her property.

ACTION: Approve the Closing

MOTION: Commissioner Blackwell moved to approve a Resolution closing the unnamed street.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

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 an unnamed street located between Rachel Road and Tractor 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 19<sup>th</sup> of march, 2007, 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;

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 buy 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:

WHEREAS, the Cumberland County Planning Department approves of the closing provided the following conditions are complied with:

- (1) the un-named street be properly ended with either a cul-de-sac or a T-type turn-around as required by the County Subdivision Ordinance;
- (2) the right-of-way for the turn-around must not encroach into the required yard setback area for all existing structures located on the affected lots;
- (3) all lots along the portion of the proposed street closing be provided with a minimum of 20 feet of road frontage to the remaining un-named street; and

(4) the properties along the portion of the un-named street proposed to be closed be recombined with the abandoned right-of-way.

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 compliance with the conditions recommended by the Planning and Inspections Department, and 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 located on the western margin of Ramsey Street where it intersects with Tractor Road, thence with the northern margin of Tractor Road in a westerly direction 835 feet to a point in the southwest corner of parcel 0542-34-7341. Said point being the southeast corner of an unnamed 60 foot right-of-way located between Tractor Road and Rachel Road. Thence with the eastern margin of said unnamed 60 foot right-of-way in a northerly direction 125 feet to a point. Thence from said point, in a westerly direction, 60 feet to a point located on the eastern margin of parcel 0542-34-4400 and the western margin of said unnamed 60 foot right-of-way. Thence with the unnamed 60 foot right-of-way southerly direction from said point 125 feet to the southeast corner of parcel 0542-34-4400. Thence with the northern margin of Tractor Road in an easterly direction from said point 60 feet to the point and place of Beginning.

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

G. Minimum Housing Code Enforcement

- |    |                               |   |
|----|-------------------------------|---|
| 1) | Case Number:                  | MH 4959-2006 and MH 4960-2006           |
|    | Property Owner:               | Oscar Moses Warren and Oscar Lee Warren |
|    | Property Location:            | 5540 Leitha Lane, Godwin, NC            |
|    | Parcel Identification Number: | 1503-02-2761                            |

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

I, George Hatcher, Code Enforcement Officer for the County of Cumberland Planning & Inspection Department, acting in my official capacity, being duly sworn depose and say:

SYNOPSIS: This property consists of a frame structure and a single wide mobile home being used for storage which is not an approved use, that were inspected on August 10, 2006. All property owners and parties of interest were legally served with the Notice of Violations and afforded a hearing on September 13, 2006. The property owners filed an answer by telephone. It was ordered that the structures be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises no later than December 13, 2006. The property owners and parties of interest were notified of the appeal procedures when they were first served with the findings of Fact and Order. No appeal was filed. Upon my visit to the property on March 9, 2007, no corrective action had been made to either of the structures. The structures are presently vacant and unsecured. In their present state, these structures constitute a fire, health and safety hazard. The estimated cost to repair the frame structure to a minimum standard for human habitation is \$30,000; the estimated cost to repair the mobile home is \$15,000. The Assessor for Cumberland County has the frame structure presently valued at \$217 and the mobile home valued at \$500 for salvageable materials. It is the recommendation of the Planning and Inspection Department that these structures be demolished and the debris removed from the lot.

The public hearing was opened. There were no speakers.

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

to remove or demolish the dwellings within 30 days, order the Inspector to remove or demolish the dwelling if the owner fails to do so and impose a lien on the real properties 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 the same in the Register of Deeds Office.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

#### Items of Business

4. Consideration of Proposed Schedule for Fiscal Year 2008 Budget Work Sessions and Budget Public Hearing.

ACTION: Approve the Schedule as shown below:

Monday, May 21, 2007, 5:00PM – Budget Presentation – Room 564

Tuesday, May 22, 2007, 5:30PM – Department Head Appeals – Room 564

Tuesday, May 29, 2007, 7:00PM – Public Hearing – Room 118

Thursday, May 31, 2007, 5:30PM – Budget Work Session – Room 564

Monday, June 4, 2007, 5:30PM – Budget Work Session – Room 564

Tuesday, June 5, 2007, 5:30 PM – Budget Work Session if needed – Room 564

Note: The Board may adopt the budget any time on or after May 31, 2007, which is ten days after the presentation of the budget to the Board of Commissioners (GS 159-13(a)).

MOTION: Commissioner Council moved to approve the above schedule.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

5. Nominations to Boards and Committees

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

BACKGROUND: Patricia Paul completes her first term on this Committee. Due to attendance issues it is recommended that Kim Howard fill the vacancy.

Nominee: Kim Howard

- B. Community Child Protection Fatality Prevention Team ( 2 vacancies)

BACKGROUND:

Law Enforcement Officer position (Sheriff's Office): Lynette Hodges' first term is due to expire on April 30, 2007, however she is unable to continue to serve. Melody Farnham has been recommended to fill the unexpired term.

Fayetteville City Policy Department position – Chris Davis’ term expires April 30, 2007. He is unable to continue to serve. Bill Mitrisin has been recommended for this position.

Nominees: Melody Farnham  
Bill Mitrisin

C. Local Emergency Planning Committee (5 Vacancies)

BACKGROUND: Vacancies as follows:

Transportation representative: David Boyette has completed his first term and is eligible for reappointment.

At-large representative: Ruth Rice has completed her first term and is eligible for reappointment.

Operators of Facilities representatives:

Scott Lester has completed his first term and is eligible for reappointment  
Joel Blake has completed his first term and is eligible for reappointment  
Jay Jarvis is no longer eligible to serve because his firm has closed. Need replacement.

Nominees: David Boyette  
Ruth Rice  
Scott Lester  
Joel Blake  
Larry Anderson

D. Mid-Carolina Aging Advisory Committee (2 Vacancies)

BACKGROUND: Vacancies:

Timothy Copeland is no longer able to serve. Recommended: David V. McMillan  
Sarah Bracey – no longer serves. Recommended: Daniel DeCriscio

Nominees: David V. McMillan  
Daniel DeCriscio

E. Nursing Home Advisory Board (2 Vacancies)

BACKGROUND: Mandella Edwards and Lora Watson have completed their initial terms. They are eligible for appointment to a full term.

Nominees; Mandella Edwards  
Lora Watson

F. Tourism Development Authority (2 Vacancies)

BACKGROUND: Vacancies as of March 31, 2007

Hotel/motels under 100 rooms representative – Katherine Jensen going off. Replacement needed.

Hotel/motels over 100 rooms representative – Cameron Stout completed term. Replacement needed.

RECOMMENDATION: The TDA recommends that the Board move Vivek Tandon, currently representing hotel/motels with under 100 rooms to the slot for a representative of a hotel of over 100 rooms (previously Cam Stout’s slot). The Board will then need to make two appointments for less than 100 rooms slots.

Nominee: Vivek Tandon (move to 100 + rooms slot)  
No other nominations made at this time.

6. Appointments to Boards and Committees

MOTION: Commissioner Blackwell moved to appoint the nominees in A&B.

SECOND: Commissioner Council

VOTE: UNANIMOUS

A. Equalization and Review Board – Appointment of Chairman, First Vice Chairman and Second Vice Chairman

Nominees: George Turner, Chairman  
David Mack, First Vice Chairman  
William “Bill” Holland, Second Vice Chairman

B. Equalization and Review Board (3 Vacancies)

Nominees:     At-Large Position:     Kathy Olsen (New Appointment)  
                  Appraiser Position:     Steven Parsons (New Appointment)  
                  Industrialist Position:     William E. Holland (Reappointment)

**The Chairman of the Board of Commissioners recessed the Board of Commissioners meeting so it could convene as the Kelly Hills/Slocomb Road Water and Sewer Board. See minutes in the Water & Sewer District Board Minute book.**

**The Chairman of the Board reconvened the regular meeting of the Board of Commissioners.**

7. Closed Session: A. Attorney Client Matter(s) Pursuant to

NCGS 143-318.11(a)(3), including Kagan v. Mosely, pending in the US district Court for the Eastern District of North Carolina

- B. Real Property Matter Pursuant to NCGS 143-318.11(a)(5).
- C. Economic Development Matter(s) Pursuant to NCGS 143-318.11(a)(4).

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

SECOND: Commissioner Council

VOTE: UNANIMOUS

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

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

MEETING ADJOURNED: 11:30PM

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Clerk to the Board