

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MAY 21, 2007, 6:45PM
REGULAR/REZONING MEETING

PRESENT: Chairman Kenneth S. Edge
Vice Chairman Breeden Blackwell
Commissioner Billy R. King
Commissioner John T. Henley, Jr.
Commissioner Ed Melvin
Commissioner Diane Wheatley
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager
Sara VanderClute, PIO
Grainger Barrett, County Attorney
Tom Lloyd, Planning/Inspections Director
Marsha Fogle, Clerk
Marie Colgan, Deputy Clerk

INVOCATION - Commissioner Billy King

PLEDGE OF ALLEGIANCE

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

NO SPEAKERS

Special Recognition:

Cumberland County Cares Award - Rhonda Washington – Rhonda's Rainbow Family of Dance

AMENDMENTS TO AGENDA:

MOTION: Commissioner Blackwell moved to add the following item to the Consent Agenda (1I):
Consideration of approval of the acquisition of the Odom Container Site.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

MOTION: Commissioner King moved to defer rezoning case P07-26 to the June 18, 2007 meeting.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

1. Consent Agenda

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

- A. Approval of minutes for the May 7, 2007 regular meeting.

ACTION: Approve

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

- 1) Case Number MH 4784-2006
Property Owner: Katherine & Kenneth Fisher
Property Location: Lot to Left of 3554 Hidden Oaks Drive, Fayetteville, NC
Parcel ID Number: 0452-46-6548
Cost of Demolition: \$1,975.00

ACTION: Adopt Ordinance (Ordinance may be found in the Minimum Housing Ordinance Book)

- 2) Case Number MH 4690-2005
Property Owner: Mary Hills Troy
Property Location: 2024 Memory Lane, Fayetteville, NC
Parcel ID Number: 0443-11-2170
Cost of Demolition: \$1,900.00

ACTION: Adopt Ordinance (Ordinance may be found in the Minimum Housing Ordinance Book)

- C. Approval of Memorandum of Understanding Among Institute for Community Leadership Partners.

BACKGROUND: The Institute for Community Leadership is a joint venture of Cumberland County, the City of Fayetteville, Fayetteville State University, FTCC, Methodist University and the Cumberland County School System. Its purpose is to identify, develop and empower members of our community who are willing to commit to leadership roles in addressing issues affecting Cumberland County. The goal is to provide community leadership boards, both non-profit and governmental, with applicants who are trained in leadership and knowledgeable of board functions and opportunities for service. Since 2004, ICL has graduated 89 residents of Cumberland County who are serving on various boards/commissions. Partners agree to host the program at their respective organizations for a period of two years every ten years. Cumberland County will host the program June 1, 2015 – May 31, 2017.

ACTION: Approve Memorandum of Understanding

D. Approval of Resolution of Intent to Exchange with Shooters Supply Certain Personal Property Declared Surplus by Sheriff.

BACKGROUND: Sheriff Butler has requested that the Board authorize his office to approve an exchange of certain personal property declared surplus by his office with Shooters Supply, Fayetteville, NC, for certain specialized equipment. The estimated value of the property changing hands is \$10,114.00. NCGS 160A-271 authorizes the Board to approve an exchange of property provided it publishes notice.

ACTION: Approve Resolution of Intent to exchange property. The Board may take final action at its June 4, 2007 meeting

RESOLUTION OF INTENT TO EXCHANGE CERTAIN PERSONAL PROPERTY
WITH SHOOTERS SUPPLY, PURSUANT TO GS 160A-271

BE IT RESOLVED, that at its next regular meeting to be held at the Cumberland County Courthouse on June 4, 2007 at 9:00AM, the Cumberland County Board of Commissioners intends to adopt a resolution authorizing the exchange of certain personal property declared surplus by the Cumberland County Sheriff's Office for specialized equipment to be exchanged with Shooters Supply, Fayetteville, as more particularly described in a memo from the Sheriff's office.

BE IT FURTHER RESOLVED that the Clerk to the Board shall advertise notice of this intent in conformance with GS 160A-271.

Weapons Trade List

HANDGUNS

Browning Hi-Power	9mm	Ser# 72C47056	\$238.00
Beretta 84BB	9mm	Ser# D20101Y	\$365.00
Colt semi-auto	.32	Ser# 409416	\$275.00
Colt Anaconda Revolver 8"	.357	Ser# MM26313	\$312.00
Colt Govt model 70	.45	Ser# 90586G70	\$364.00
Colt Govt model 70	9mm	Ser# 70L24200	\$364.00
Colt Govt model 70	.45	Ser# 70B36704	\$364.00
Colt Lawman Revolver 2 1/2"	.38	Ser# 43596L	\$156.00
Glock 17	9mm	Ser# ABY928US	\$255.00
Glock 19	9mm	Ser# GS552US	\$301.00
Glock 22	9mm	Ser# RU235US	\$255.00
Rossi Revolver 4"	.38	Ser# D603625	\$133.00
Rossi Revolver 2 1/2"	.38	Ser# AA144814	\$110.00
Ruger Security Six Revolver	.357	Ser# 160-57446	\$140.00
Ruger Blackhawk Revolver 8"	.44	Ser# 83-92932	\$196.00
Ruger P95DC	9mm	Ser# 312-43212	\$206.00
Ruger P-85	9mm	Ser# 30390271	\$206.00

Ruger P-89	9mm	Ser# 30440713	\$206.00
S&W model 65 Revolver 4"	.357	Ser# 1D44470	\$216.00
S&W model 10 Revolver 4"	.38	Ser# D333507	\$150.00
S&W model 29 Revolver 6"	.44	Ser# BRU7783	\$307.00
S&W model 66 Revolver 4"	.357	Ser# AUK8948	\$232.00
S&W model 686 Revolver 4	.357	Ser# AUL1581M	\$355.00
S&W SW40VE	.40	Ser# PBF4891	\$309.00
S&W SW40V	.40	Ser# PAU1493	\$309.00
Springfield Champion	.45	Ser# N345189	\$229.00
Springfield 1911	.45	Ser# NM47661	\$286.00
Springfield XD-9	9mm	Ser# US952128	\$300.00
Taurus Revolver 2 1/2"	.38	Ser# ML25946	\$102.00

SHOTGUNS

Coast to Coast	12 Ga.	Ser# B109217	\$200.00
High Standard K-1200	12 Ga.	Ser# SD-9 (parts)	\$100.00
High Standard K-1200	12 Ga.	Ser# SD-10 (parts)	\$100.00
High Standard K-1200	12 Ga.	Ser# 3038620 (parts)	\$100.00
High Standard K-1200	12 Ga.	Ser# Unk-#1	\$200.00
High Standard K-1200	12 Ga.	Ser# Unk-#3	\$200.00
High Standard K-1200	12 Ga.	Ser# SD-6	\$200.00
High Standard K-1200	12 Ga.	Ser# 3039243	\$200.00
High Standard K-1200	12 Ga.	Ser# 3039240	\$200.00

- E. Approval of the Cumberland County Juvenile Crime Prevention Council Contracts Representing Funding Allocations for July 1, 2007 through June 30, 2008.

BACKGROUND: Cumberland County is projected to receive \$940,867 in state dollars for fiscal year 2007-08. Local matching funds are required in order to receive the state funds. The Match will be \$211,684. The CCJCPC has developed its plan for FY07-08 and requests approval of the Board of Commissioners.

ACTION: Approve the Plan.

- F. Approval of Settlement Agreement in Kagan v. Mosley.

BACKGROUND: This lawsuit was filed by the Plaintiff against, among others, the Sheriff's Office and Deputy L. Christian, alleging failure of a state law duty to provide adequate medical care to the plaintiff when he was detained in the Cumberland County Detention Center. Plaintiff was removed from a Greyhound Bus traveling from New York City to Miami by the Fayetteville City Police at the request of personnel in Greyhound's Fayetteville bus terminal, who alleged he was either drunk or otherwise acting in a disruptive manner. While being removed from the bus and placed in a Fayetteville Police Department vehicle, Plaintiff scuffled with the officer and fell over a curb while handcuffed. Plaintiff was processed that night into the Cumberland County Detention Center. In the morning he requested medical care and was referred to Highsmith

Rainey Hospital where it was determined that among other injuries he had a broken collar bone. While the Sheriff's Office vigorously denies that it has any legal liability to the Plaintiff, the costs of continued defense of this action would likely exceed \$75,000, while any conceivable recovery against the Sheriff's Office would, because of the defense of sovereign immunity, be limited to the amount of the Sheriff's Bond, \$25,000. The Board of Commissioners has authorized settlement of this action in the amount of \$25,000. Plaintiff and his counsel have signed the settlement agreement and Plaintiff has signed a comprehensive release and waiver of all claims.

ACTION: Authorize the County Attorney to sign the settlement agreement with no admission of liability.

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

- 1) Res 314 Maloney Ave - Lots 21-22
(Located on Maloney Ave, off Grove Street)
PIN 0437-95-9834; Cross Creek Township

BACKGROUND: On October 26, 2005, the County acquired by tax foreclosure the above noted property. The amount currently owed on the foreclosure judgment including interest and cost for the property is \$4,737.07. Syeda Chowdhury Gainey, the last and highest bidder, bid \$9,900 for the property and deposited \$990 with the County Finance Department. The tax value of the property is \$22,200. This property is surplus to the needs of the county.

ACTION: Approve the offer of Ms. Gainey to purchase the property and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

H. Budget Revisions:

ACTION: Approve

- (1) Injured Animal Stabilization Fund

Revision in the amount of \$4,000 to appropriate injured animal fund balance for additional veterinarian bills. (B07-345) **Funding Source – Injured Animal Stabilization Fund Balance**

- (2) Kelly Hills Water and Sewer

Revision in the amount of \$24,904 to transfer sales tax revenue and maintenance fees from the Kelly Hills capital project fund to the Kelly Hills maintenance fund in order to close out the capital fund and establish an ongoing maintenance fund. (B07-341 and B07-341A) **Funding Source – Other**

(3) Register of Deeds

Revision in the amount of \$25,047 to budget additional revenue and expenditures anticipated for the remainder of the fiscal year. (B07-342) **Funding Source – Fees**

(4) Cumberland Day Reporting Center

Revision in the amount of \$21,700 to recognize additional state funds to purchase a van. (B07-340) **Funding Source – State**

(5) Welfare Other

Revision in the amount of \$2,000 to budget additional revenue for the NC Child Trust. (B07-349) **Funding Source – Fees**

(6) Mental Health

- a. Substance Abuse Contracts - Revision in the amount of \$45,069 to budget additional state funding for start up and operations of adolescent substance abuse services. (B07-343) **Funding Source – State**
- b. Developmental Disability Contracts – Revision in the amount of \$66,500 to increase budget for medical supplies funded by Medicaid. (B07-344) **Funding Source - Fees**

(7) Recreation and Parks

Revision in the amount of \$202,100 to budget additional revenue anticipated for the remainder of the fiscal year. (B07-347) **Funding Source – Recreation Tax**

(8) Recreation – Hope Mills

Revision in the amount of \$18,000 to budget additional revenue anticipated for the remainder of the fiscal year. (B07-348) **Funding Source – Hope Mills Recreation Tax**

(9) School Capital Outlay Fund

- a. Buildings- Revision in the amount of \$159,000 to reduce fund balance appropriated and expenditures based upon actual expenditures. (B07-346)
Funding Source – School Fund Balance Appropriated
- b. Equipment- Revision in the amount of \$79,897 to appropriate fund balance to purchase equipment. (B07-346A) **Funding Source – School Fund Balance Appropriated**
- c. Vehicles- Revision in the amount of \$20,897 to reduce appropriate fund balance and expenditures based upon actual expenditures. (B07-346B)
Funding Source – School Fund Balance Appropriated

(10) Sheriff

- a. Revision in the amount of \$6,552 to recognize Department of Justice Bulletproof Vest Grant. (B07-350) **Funding Source – Federal Grant**
- b. Revision in the total amount of \$28,750 to recognize a \$23,000 pass-through State Gang Violence Grant and an in-kind match of \$5,750. (B07-351)
Funding Source – Fees

(11) Animal Control

Revision in the amount of \$38,091 to appropriate fund balance to cover expenditures for the remainder of FY2007. (B07-351) **Funding Source – General Fund Fund Balance**

2. Public Hearings

Uncontested Cases

No one signed up to speak.

MOTION: Commissioner Blackwell moved to follow the Planning Board recommendations on the uncontested rezoning cases (Cases A, C, D, E,)

SECOND: Commissioner King

VOTE: UNANIMOUS

Rezoning

- A. Case P07-24. The rezoning of .34 acres from R10 to C1(P), or to a more restrictive zoning district, at 3639 Boone Trail, owned by Judy L. (Suggs) Morris.

The Planning Board recommends approval of C1(P).

- B. Case P07-26. The rezoning of a .24 acre portion of a 26.18 acre tract, from A1 to R15, or to a more restrictive zoning district, located south of Sand Hill Road, west of Tower Road, owned by Terry Spell Land Development, LLC.

The Planning Board recommends approval of R15.

THIS CASE WAS DEFERRED TO THE JUNE 18, 2007 MEETING.

- C. Case P07-27. The rezoning of three parcels totaling 47.24 acres from R6A to A1, located on the south side of Tom Starling Road, at Innisfree Place, owned by Patricia Leahy.

The Planning Board recommends approval of A1.

- D. Case P07-28. Initial zoning of .92 acres to RR (as a result of de-annexation by the Town of Hope Mills), located on the west side of Mission Hill Road, south of Oak Haven Road, owned by Dawn and William Stock.

The Planning Board recommends approval of RR.

- E. Case P07-30. The rezoning of .28 acres from R10 to O&I(P), or to a more restrictive zoning district, at 1449 E. Manchester Road, owned by Malcolm James.

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

Contested Cases

- F. Case P07-20. The rezoning of three parcels totaling 43.36 acres from A1 to R30, or to a more restrictive zoning district, located south of Dunn Road, east of Ringwood Drive, owned by Cain Builders, Inc.

The Planning Board recommends approval of R40.

No one spoke at the Public Hearing.

MOTION: Commissioner Blackwell moved to follow the recommendation of the Planning Board and approve R40.

SECOND: Commissioner Henley

VOTE: UNANIMOUS

Conditional Use District & Permit Case

- G. Case P07-04. The rezoning of 44.32 +/- Ac from A1 to R15/Density Development/Conditional Use District & Permit, or to a more restrictive zoning district, located on the west side of Old Vander Road, northwest of Simmons Carter Road, owned by Gertrude V. Harris.

The Planning Board recommends approval of R40 Density Development Conditional Use District and the permit.

MOTION: Commissioner Henley 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.

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

MOTION: Commissioner Henley moved that the Board finds that this conditional use district permit application, if completed as proposed 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.

SECOND: Commissioner King

VOTE: UNANIMOUS

Items of Business

3. Nominations to Boards and Committees

A. ABC Board (2 Vacancies)

BACKGROUND: The following positions will become vacant on June 30, 2007:

Glenn B. Adams – eligible for reappointment

Stanley Johnson – not eligible for reappointment

Nominees: Glenn B. Adams (reappointment)
Bobby Knight
Sheryl Lewis

B. Animal Control Board (3 Vacancies)

BACKGROUND: The following positions will become vacant on June 30, 2007:

Dr. John Lauby (ex-officio position) – eligible for reappointment

Edwin Hamblin – At large – eligible for reappointment

Wallace Owens – At-large – eligible for reappointment

Nominees: Dr. John Lauby (reappointment)
Edwin Hamblin (reappointment)
Wallace Owens (reappointment)

C. Board of Adjustment (2 Vacancies)

BACKGROUND: The following positions will become vacant on June 30, 2007:

Oscar L. Davis, III – eligible for reappointment
Johnnie Lee Council (Alternate Member) – eligible for reappointment, but does not want to serve another term

Nominees: Oscar L. Davis, III (reappointment)

The Board will nominate to fill the Council position at the next meeting.

D. Board of Health (1 Vacancy)

BACKGROUND: The Board of Health has the following vacancy:

Dr. Christopher Barnes (physician position): Resigned. The Board of Health recommends Dr. Cynthia Norris to fill this position.

Nominee: Dr. Cynthia Norris

E. Criminal Justice Partnership Advisory Board (8 Vacancies)

BACKGROUND: This Board will have the following vacancies on June 30, 2007:

Ed Grannis (District Attorney) – Eligible for reappointment
Kimbrell Tucker (At-large) – Eligible for reappointment
Frederick Frimet (At-large) – Eligible for reappointment
Richard Hayes (At-large) – Not eligible for reappointment
Ralph Spivey (At-large) – Not eligible for reappointment
Ron McSwain (Public Defender) – eligible for reappointment
Billy King (Commissioner) – Unable to serve another term, replacement needed
Sherry Miller (Criminal Defense Attorney) - Eligible for reappointment

Nominees: Ed Grannis (reappointment)
Kimbrell Tucker (reappointment)
Frederick Frimet (reappointment)
Lisa Jackson (at-large position, replacing Hayes)
William McFadyen (at large position) replacing Spivey)
Ron McSwain (reappointment)
Diane Wheatley (commissioner, replacing King)
Sherry Miller (reappointment)

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

BACKGROUND: One vacancy: Lynett Shakeel (Substance Abuse Professional) – cannot serve another term. Gregory Pitts has been recommended to fill this position.

Nominee: Gregory Pitts

G. Fayetteville Technical Community College Board of Trustees (1 Vacancy)

BACKGROUND: FTCC will have the following vacancy on June 30, 2007:

William S. Wellons, Jr. – Eligible for reappointment

Nominee: Williams S. Wellons, Jr. (reappointment)

H. Human Relations Commission (2 Vacancies)

BACKGROUND: The Human Relations Commission will have the following vacancies on July 1, 2007:

Lynette Hill Gardner – Eligible for reappointment

Densie Giles – Eligible for reappointment

Nominees: Lynette Hill Gardner (reappointment)
Densie Giles (reappointment)

I. Jury Commission (1 Vacancy)

BACKGROUND: The Jury Commission will have the following vacancy on June 30, 2007:

Monika Simmons – Eligible for reappointment

Nominee: Monika Simmons (reappointment)

J. Nursing Home Advisory Board (1 Vacancy)

BACKGROUND: Navy Thomas has completed her initial term but due to her attendance record, Stephanie Hodges has been recommended to fill this vacancy.

Nominee: Stephanie Hodges

K. Parks & Recreation Advisory Commission (3 Vacancies)

BACKGROUND: The Parks and Recreation Advisory Commission will have the following vacancies on June 30, 2007:

Willie Cooper – Eligible for reappointment
Paul Douglas Caudill – Eligible for reappointment
Lynette Hill Gardner – Eligible for reappointment

Nominees: Willie Cooper (reappointment)
Paul Douglas Caudill (reappointment)
Lynette Hill Gardner (reappointment)

L. Consideration of Joint Planning Board Request for Extension of Term of Clifton McNeill, Jr.

BACKGROUND: Mr. Clifton McNeill's term will expire on June 30, 2007. The Planning Board voted unanimously to request that the Board of Commissioners extend Mr. McNeill's term for an additional year. Mr. McNeill is a co-chair for the 2030 Plan Task Force and represents the Planning Board on the Committee. In addition, Mr. McNeill is a member of the Land Use Codes Subcommittee which is engaged in a thorough on-going review and revision of the Subdivision Ordinance this year. His expertise will be invaluable on the 2030 Plan Committee and the Land Use Codes Subcommittee.

ACTION: Approve extension of Mr. McNeill's term until June 30, 2008.

MOTION: Commissioner Blackwell moved to extend Mr. McNeill's term until 6/30/08.

SECOND: Commissioner Henley

DISCUSSION: Commissioner King expressed concern about extending terms.

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

M. Storm Water Advisory Board (2 Vacancies)

BACKGROUND: The Storm Water Advisory Board will have the following vacancies on June 30, 2007:

Nancy Smith – Eligible for reappointment
Jennings McArthur – Eligible for reappointment

4. Appointments to Boards and Committees

MOTION: Commissioner Melvin moved to appoint the nominees in A-C.

SECOND: Commissioner Wheatley

VOTE: UNANIMOUS

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

Nominee: Benita Briggs

B. Community Child Protection Fatality Prevention Team (3 Vacancies)

Nominees:

EMS Provider or Firefighter Position:

Barry Childers (New Appointment
to fill unexpired term)

Parent of a Child Who Died Before
Reaching their 18th Birthday Position:

Tonya Vetter (New Appointment)

At-Large Position:

Maxine Anders (New Appointment
To fill unexpired term)

C. Juvenile Crime Prevention Council (1 Vacancy)

Nominee:

Member of Faith Community:

Rev. Brian Thompson (Reappointment)

Chairman Edge recessed the Commissioners meeting and the Board convened as the Kelly Hills/Slocumb Road Water and Sewer District Governing Board. Minutes of that meeting may be found in the Water and Sewer District Minute Book.

Chairman Edge reconvened the regular meeting of the Board of Commissioners.

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

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

MEETING ADJOURNED: 7:45PM.

Clerk to the Board