

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
DECEMBER 7, 2009 - 9:00 AM
117 Dick Street, 1st Floor, Room 118
REGULAR MEETING

PRESENT: Chairman Jeannette Council
Vice Chairman Billy R. King
Commissioner Breeden Blackwell
Commissioner Kenneth Edge
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
Commissioner Ed Melvin
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Assistant County Manager
Phyllis Jones, Interim County Attorney
Harvey Raynor, Deputy County Attorney
Sally Shutt, Communications Manager
Candice White, Deputy Clerk to the Board
Marie Colgan, Clerk to the Board

INVOCATION Commissioner Edward G. Melvin

Minister: Rev. Brad Fleming- Carroll Memorial Baptist Church

Pledge of Allegiance

Special Recognition: Justin Kyle Smith – 2009 Cumberland County Young Farmer of the Year

1. Approval of Agenda

ADDITION TO THE AGENDA UNDER ITEM 2: Closed Session: Attorney-Client Matter - pursuant to NCGS 143-318.11 (a)(3)

MOTION: Commissioner King moved to approve the addition of a Closed Session.

SECOND: Commissioner Faircloth

VOTE: Unanimous

MOTION: Commissioner King moved to approve the agenda.

SECOND: Commissioner Blackwell

VOTE: Unanimous

2. Public Hearing on Qualified School Construction Bonds

BACKGROUND: The Board of Commissioners has called this public hearing to consider an installment financing contract under G.S. 160A-20 with Wachovia (a subsidiary of Wells Fargo & company) to provide funding under the Qualified School Construction Bond Program (QSCB's).

This public hearing was on your November 16, 2009 agenda. However, due to a failure to meet the statutory requirement for publication, Management asked the Board to call another public hearing for this meeting. This public hearing has been properly advertised to meet the general statutes.

ACTION: Hold the public hearing and adopt the resolution (attached) approving the installment financing contract under G.S. 160A-20 with Wachovia for \$15.9M to provide capital funding for school renovation projects and associated documents including deed of trust to Wachovia and lease with Board of Education, and authorize the County Manager to sign on behalf of the County, with such changes or revisions consistent with the general tenor thereof as may be satisfactory to the County Manager and the Interim County Attorney.

RESOLUTION CONCERNING FINAL APPROVAL OF
INSTALLMENT FINANCING FOR CERTAIN SCHOOL
PROJECTS THROUGH THE ENTRY INTO AN
INSTALLMENT FINANCE AGREEMENT WITH THE
CUMBERLAND COUNTY FINANCE CORPORATION AND
ITS ISSUANCE OF CERTIFICATES OF PARTICIPATION AS
QUALIFIED SCHOOL CONSTRUCTION BONDS UNDER
THE INTERNAL REVENUE CODE AND AUTHORIZING
THE EXECUTION AND DELIVERY OF DOCUMENTS IN
CONNECTION THEREWITH

WHEREAS, the Board of Commissioners (the "Board") of the County of Cumberland, North Carolina (the "County") has resolved to undertake, through issuance by the Cumberland County Finance Corporation (the "Corporation") of its certificates of participation the financing of (a) renovations to thirteen schools in the County, including Byrd Middle School, Mary McArthur Elementary School, Elizabeth Cashwell Elementary School, Cumberland Road Elementary School, Cape Fear High School, Rockfish Elementary School, Wm. H. Owen Elementary School, Long Hill Elementary School, Cumberland Mills Elementary School, Westover Middle School, Manchester Elementary School, Terry Sanford High School, E. E. Smith High School, Lloyd Auman Elementary School, and Reid Ross Classical School (each a "School" and collectively, the "Project") and (b) certain costs incurred in connection with the initial execution and delivery of the such certificates; and

WHEREAS, the County will enter into an Installment Financing Agreement dated as of December 10, 2009, (the "Agreement") for this purpose with the Agreement being an agreement authorized under Section 160A-20 and having payments thereon by the County subject to appropriation; and

WHEREAS, financings pursuant to Section 160A-20 must be approved by the North Carolina Local Government Commission (the "LGC"); and

WHEREAS, for such financing the Corporation has proposed to execute and deliver its \$15,900,000 Tax Credit Certificates of Participation (Cumberland County QSCB Projects), Series 2009 (the "Certificates") pursuant to an Indenture of Trust dated as of December 10, 2009 (the "Indenture"), between the Corporation and U.S. Bank National Association, as Trustee (the "Trustee"), such Certificates to be payable from Installment Payments made by the County under the Agreement and secured by the lien and security interest created by a Deed of Trust and Security Agreement dated as of December 10, 2009 (the "Deed of Trust"), from the County to a trustee named therein with respect to one or more Schools; and

WHEREAS, the same one of more Schools will be leased to and the Project managed by the Cumberland County Board of Education pursuant to a Lease Agreement dated as of December 10, 2009 (the "Lease"), and the County's interests in the Lease are to be assigned as security for the obligations of the County under the Agreement pursuant to the Deed of Trust; and

WHEREAS, the Certificates are expected to be sold to Wachovia Bank, National Association (the "Initial Purchaser") under the terms set forth in a term sheet to be executed by the County after approval of the transaction by the LGC (the "Term Sheet"); and

WHEREAS, there have been presented to the Board forms of the following documents which the Corporation, the Initial Purchaser and the County propose to use in connection with the Agreement, the Certificates and the financing of the Projects:

- a draft dated November 12, 2009, of the form of the Agreement;
- a draft dated November 12, 2009, of the form of the Deed of Trust;
- a draft dated November 12, 2009, of the form of the Indenture;
- a draft dated November 12, 2009, of the form of the Lease; and

WHEREAS, the Board desires to approve the Agreement, the Deed of Trust, the Indenture, the Lease and the sale of the Certificates and to authorize other actions in connection therewith; and

WHEREAS, the County at its meeting on November 2, 2009, made findings with respect to the Project and the financing thereof; and

WHEREAS, the County has held a public hearing regarding the financing of the Project through the Certificates and the Agreement; and

WHEREAS, the LGC will consider the County's application for approval of the Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF CUMBERLAND, NORTH CAROLINA:

The financing of the Project pursuant to the Agreement and in accordance with the terms and conditions of the Indenture is hereby approved, based, in part, on the findings made on November 2, 2009.

The Chairman or Vice Chairman of the Board and the County Manager, or any of them, are hereby authorized and directed to execute and deliver the Agreement, the Deed of Trust, the Lease and the Term Sheet (together, the "County Financing Documents"), which shall be in substantially the forms previously submitted, which are hereby approved, with such completions, omissions, insertions, and changes as may be approved by the

Chairman, Vice Chairman or the County Manager, with the advice of the County Attorney and Special Counsel, including such changes as may be required by the LGC, their execution to constitute conclusive evidence of their approval of any such completions, omissions, insertions and changes. The Clerk of the Board shall attest and seal such documents as require the Clerk's attestation and the County seal.

The Board hereby approves the execution and delivery by the Corporation of the Agreement, the Indenture and the Certificates and any other documents or certificates that may be required in connection with the execution and delivery of the Certificates.

The Chairman, Vice Chairman, County Manager, County Finance Officer, County Attorney and Clerk of the Board are hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this resolution and to effect the installment financing pursuant to the Agreement. Without limiting the generality of the foregoing, the Chairman, Vice Chairman or County Manager are authorized to approve all details of the financing, including without limitation, the annual payments due under the Agreement, the interest rate on the Certificates (which shall be not exceed 3% per annum), the tax credit rate on the Certificates (which shall be a rate set by the Secretary of the Treasury) and the term of the Agreement (which shall be the maximum term permitted by the most recent announcement of the Secretary of the Treasury). Execution of the Agreement by the Chairman, Vice Chairman or County Manager, as the case may be, shall conclusively evidence approval of all such details of the financing.

To the extent permitted by law, the County Manager, or such other officer or employee of the County as may be responsible from time to time for the preparation of the County's annual budget, is hereby authorized and directed to carry out the obligations imposed by the Agreement on such officer or employee.

All other actions of the officers of the County which are in conformity with the purposes or intent of this resolution and in furtherance of the execution and delivery of the Agreement, including the execution of the County Financing Documents are hereby ratified, approved and confirmed. The representations of the County made in the Agreement are hereby confirmed.

The following financing team members shall serve for the issuance of the Certificates:

Co- Special Counsel: Hunton & Williams LLP and The Charleston Group
Trustee: U.S. Bank National Association

All resolutions or parts thereof in conflict herewith are hereby repealed.

This resolution shall take effect immediately.

* * * * *

Commissioner _____ moved the passage of the foregoing resolution and
Commissioner _____ seconded the motion, and the resolution was passed by the
following vote:

Ayes: Commissioners _____

Nays: Commissioners _____

Not Voting: _____

The Chairman opened the Public hearing. No Speakers. The Chairman closed the Public Hearing.

MOTION: Commissioner Edge moved to approve as requested.
SECOND: Commissioner King
VOTE: Unanimous

MOTION: Commissioner King moved to go into Closed Session
SECOND: Commissioner Blackwell
VOTE: Unanimous

MOTION: Commissioner Edge moved to go back into Open Session
SECOND: Commissioner Blackwell
VOTE: Unanimous

Chairman Council read the following statement from the Board of Commissioners:

“The Cumberland County Board of Commissioners has been notified that the District Attorney’s office has asked the State Bureau of Investigation to assist in determining if the Department of Social Services has provided the Fayetteville Police Department with complete and accurate records in the Shaniya Davis case. County Manager James Martin received the following letter from the District Attorney late Friday afternoon regarding this matter. Letter from DA will be read and copies provided to those who ask for it. Mr. Martin informed the Commissioners and DSS Director Brenda Jackson of the DA’s action. Friday was the first time County management and Ms. Jackson received notice of the Fayetteville Police Department’s concerns about the completeness and accuracy of the records received so far in the Shaniya Davis investigation. Ms. Jackson said she will see that DSS personnel fully cooperate with the authorities in resolving this matter. We will await the findings from the SBI before commenting further on the issue.”

The following letter from District Attorney Ed Grannis to County Manager James Martin was also read:

“This afternoon I met with Chief Bergamine and members of the investigative team investigation the death of Shaniya Davis. Following the presentation by the investigators with the Fayetteville Police Department, Chief Bergamine has requested the SBI’s assistance to determine if Fayetteville Police have received complete and accurate records from Cumberland County DSS regarding this case. Based upon the information provided to me and my senior staff by the Fayetteville Police Department concerning these issues, I share their concern and I have requested the assistance of the SBI to assist us in this regard.”

3. Election of Officers:

Chairman Council thanked Board members, County Manager James Martin and his management team, the Clerk's office and County staff for their support during her tenure as Chairman.

A. Chairman

MOTION: Commissioner Blackwell moved to appoint Billy King

SECOND: Commissioner Melvin

VOTE: Unanimous

At this point, Commissioner King moved into the Chair position.

B. Vice Chairman

MOTION: Commissioner Council moved to appoint Kenneth Edge

SECOND: Commissioner Melvin

VOTE: Unanimous

4. Presentation of Plaque to Outgoing Chairman.

Incoming Chairman King presented a plaque to outgoing Chairman Council stating that she has done a great job as Chairman and that all have worked together through this very challenging year.

Chairman King expressed his excitement for the upcoming year and listed the following challenges: hospital plans for Hoke and Bladen County, school construction projects, State government transferring road projects to the local level, State budget cuts putting more pressure on local government, consideration of new hotels-motel projects, county wide water, BRAC, school funding and accountability, providing citizens with jobs and new funding sources and revenue at the State and local level. Chairman King assured the citizens that the Board is up to the challenges and looks forward to working together with everyone in the coming year.

Vice Chairman Edge thanked the Board for their vote of confidence and looks forward to having a very successful year.

5. Consent Agenda

MOTION: Commissioner Blackwell moved to approve all items on the Consent Agenda.

SECOND: Commissioner Faircloth

VOTE: Unanimous

A. Approval of minutes for the November 16, 2009 regular meeting and special meetings on November, 4, 2009, November 16, 2009 and November 23, 2009.

B. Approval of Bonds for Public Officials.

BACKGROUND: Pursuant to North Carolina General Statutes, the Board of Commissioners must approve bonds for selected officials at its first meeting in December.

ACTION: Approve the following bonds:

<u>Name/Position</u>	<u>Amount</u>	<u>Expires</u>	<u>Broker</u>	<u>Carrier</u>
Finance Officer (Amy Cannon)	\$100,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Asst. Finance Officer (Howard Abner)	\$ 50,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Asst. Finance Officer (Terry Gagnon)	\$ 50,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Register of Deeds (J. Lee Warren, Jr.)	\$ 25,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Tax Administrator (Aaron Donaldson)	\$200,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Sheriff (Earl Butler)	\$ 25,000	12-06-10	Marsh	Ohio Casualty Ins. Co.
Sheriff's Office (Chief Deputy Paul Hinson)	\$ 20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Mental Health (Hank Debnam)	\$ 20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Mental Health (Densie Lucas)	\$ 20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Social Services (Brenda Reid Jackson)	\$ 20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Civic Center (Lisa Foster)	\$ 20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.
Civic Center (Ashley Foster)	\$20,000	Indefinite	Marsh	Ohio Casualty Ins. Co.

C. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – PIN: 0437-61-0660; Cross Creek Township.

BACKGROUND: On or about November 1, 2007, the County acquired by tax foreclosure the above property. The amount currently owed on the foreclosure judgment including interest and cost for the property is \$3,615.90.

Bishop Larry O. Wright has offered to purchase the County's interest in the property for \$3,615.90 and has deposited \$365.19 in the Finance Office. The tax value of the property is \$5,000.00.

This property is surplus to the needs of the County and, according to N.C.G.S. 153A-176 and N.C.G.S. 105-376, the County has the authority to sell such property. Management has reviewed this offer and it is now being submitted for the Board to consider whether or not to accept Bishop Wright's bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

ACTION: Accept the offer of Bishop Larry O. Wright to purchase the above property for the sum of \$3,615.90, plus costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

D. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – PIN: 0442-66-9594; Grays Creek Township.

BACKGROUND: On or about November 1, 2007, the County acquired by tax foreclosure the above property. The amount currently owed on the foreclosure judgment including interest and cost for the property is \$5,817.18.

Brian Daigneault has offered to purchase the County's interest in the property for \$5,817.18 and has deposited \$581.00 in the Finance Office. The tax value of the property is \$10,000.00.

This property is surplus to the needs of the County and, according to N.C.G.S. 153A-176 and N.C.G.S. 105-376, the County has the authority to sell such property. Management has reviewed this offer and it is now being submitted for the Board to consider whether or not to accept Mr. Daigneault's bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

ACTION: Accept the offer of Brian Daigneault to purchase the above property for the sum of \$5,817.18, plus costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

E. Approval of Consideration of Extension of Lease with Carolina Residential Services, Inc. for 226 Bradford Avenue effective January 1, 2010.

BACKGROUND: Carolina Residential is a psychosocial rehabilitation provider which contracts with Cumberland County Mental Health to provide client services. In April, 2007, the County leased to Carolina Residential the facility on Bradford Avenue formerly known as the Sunflower Center for a six-month period. In November 2007, that lease was extended until December 31, 2008 under the same terms and conditions. Since January 2009, Carolina Residential has rented the premises under a month-to-month lease. The new lease provides that the County is responsible for maintenance and repair; however, the tenant is responsible for notifying the County when maintenance is needed. The tenant is also responsible for damages caused by its failure to notify the County of needed maintenance and repairs.

ACTION: Approve an extension of the lease with the County providing routine maintenance on a month to month basis at a rental rate of \$5,496.00 per month effective January 1, 2010.

- F. Approval of Consideration of the Addendum to the Lease with the State of North Carolina for 412 Russell Street (Day Reporting Center), for the period November 1, 2009 through June 30, 2014.

BACKGROUND: On February 15, 1999, the Board of Commissioners approved execution of a lease agreement with the State of North Carolina for the lease of 8,691 square feet of office space for the Department of Correction (Probation) at 412 Russell Street. The lease provided for renewal for two additional five-year periods.

The State can no longer fund office space for Probation Officers and their administrative support pursuant to Session Law 2009-451 §19.19. Effective November 1, 2009, the State can pay rent for only 1,465 square feet of space used for management and other non-probation staff.

ACTION: Approve an addendum to the contract which provides for the rental of 1,465 square feet at the following yearly rates:

11/01/2009 thru 06/30/2010	\$13,507.28/yr.-\$1,688.41/mo.	For remaining 8 months (\$13.83 per sf)
07/01/2010 thru 06/30/2011	\$20,627.20/yr.-\$1,718.93/mo.	(\$14.08 per sf)
07/01/2011 thru 06/30/2012	\$20,978.80/yr.-\$1,748.23/mo.	(\$14.32 per sf)
07/01/2012 thru 06/30/2013	\$21,345.05/yr.-\$1,778.75/mo.	(\$14.57 per sf)
07/01/2013 thru 06/30/2014	\$21,711.30/yr.-\$1,809.27/mo.	(\$14.82 per sf)

- G. Budget Revisions:

- (1) Library

- a. Smart Start Read to Me - Revision in the amount of \$20,583 to budget additional State funding. (B10-186) Funding Source – State
 - b. MotherRead – Revision in the amount of \$8,357 to budget additional State funding. (B10-187) Funding Source – State
- (2) Health
- a. Administration - Revision in the amount of \$60,000 to budget additional State funding. (B10-184) Funding Source – State
 - b. Laboratory – Revision in the amount of \$6,320 to budget additional State funding. (B10-185) Funding Source - State
- (3) Emergency Services
- Revision in the amount of \$12,000 to appropriate communications fund balance for additional electrical upgrades to the communications center. (B10-183) Funding Source – Fund Balance Appropriated - Communications
- (4) Senior Aides
- Revision in the amount of \$30,000 to budget new Senior Service America Digital Inclusion Community Service Initiative Grant. (B10-188) Funding Source – State Grant
- (5) Social Services
- Revision in the amount of \$140,837 to budget additional Federal funds for crisis intervention program. (B10-180) Fund Source – Federal
- (6) Juvenile Crime Prevention Program
- Revision in the amount of \$12,126 to appropriate fund balance to refund revenue received and not spent in FY2009. (B10-190) Funding Source – Grant
- (7) General Government Other
- Revision in the amount of \$35,638 appropriating fund balance to roll forward insurance proceeds received in FY2009. (B10-189) Funding Source – Insurance
- (8) Qualified School Construction Bonds (QSCB) Fund
- Revision in the amount of \$15,900,000 to budget QSCBs for the construction of additional classrooms and other renovations (see attachment). (B10-191) Funding Source – Qualified School Construction Bonds

ITEMS OF BUSINESS

6. Nominations to Boards and Committees

- A. Cumberland County Local Emergency Planning Committee (1 Vacancy)

Nominee: Eddie Smith (Transportation Representative)

7. Appointments to Boards and Committees

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

Nominees: Sandra Ebron
Cassandra W. Haire

- B. Air Quality Stakeholders' Committee (1 Vacancy)

Nominee: City of Fayetteville Representative: Keith A. Bates

- C. Cumberland County Home and Community Care Block Grant Committee (1 Vacancy)

Nominee: Aging Service Provider: Catherine VanSickle

- D. Cumberland County Local Emergency Planning Committee (1 Vacancy)

Nominee: Law Enforcement Representative: Lieutenant Wade Owen

- E. Farm Advisory Board (9 Vacancies)

Nominees:

Farmers:

Clifton McNeill, Jr. to serve a two-year term. (Reappointment)

David Collier to serve a three-year term.

Sherrill Jernigan to serve a one-year term. (Reappointment)

Wayne Collier, Jr. to serve a three-year term. (Reappointment)

Craig Tyson to serve a three-year term. (Reappointment)

Natural Resource Conservation Service:

Charlie Guy to serve a one-year term. (Reappointment)

Farm Bureau Representative:

Joe Gillis to serve a one-year term. (Reappointment)

Planning Board Representative:

Roy Turner to serve a two-year term.

Cooperative Extension Service Representative:
Colby Lambert to serve a two-year term.

F. Mental Health Board (9 Vacancies)

Nominees:

Licensed Physician: Dr. Zane Walsh, Jr. (Reappointment)

Individual with Financial Expertise: Christopher Bostock (Reappointment)

Individual with Financial Expertise: Willie Cooper, Jr. (Reappointment)

Representative with a Family Member or from a Citizen's Organization who Advocates for Persons with a Developmental Disability: Lodies Gloston

Drug Abuse, Primary Consumer, Presently in Recovery: Gladys Hunt (Reappointment)

Alcoholism (Family Consumer): Jo Beth Cain (Reappointment)

Individual with Management or Business Expertise: Liliana C. Parker (Reappointment)

At-Large Member: Albert Bleakley

Openly Declared Consumer with Mental Illness: Alejandro Vasquez

MOTION: Commissioner Edge moved to appoint all nominees under 7A-7F.

SECOND: Commissioner Council

VOTE: Unanimous

MOTION: Commissioner Faircloth moved to adjourn

SECOND: Commissioner Blackwell

VOTE: Unanimous

ADJOURNED: 9:35 AM

Clerk to the Board