

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MAY 18, 2009, 6:45PM
REGULAR/REZONING MEETING

PRESENT: Chairman Jeannette Council
Vice Chairman Billy R. King
Commissioner Breeden Blackwell
Commissioner Kenneth Edge
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
James Martin County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Asst. County Manager
Grainger Barrett, County Attorney
Harvey Raynor, Deputy County Attorney
Marie Colgan, Deputy Clerk
Marsha Fogle, Clerk
Tom Lloyd, Planning/Inspections Director
ABSENT: Commissioner Ed Melvin

INVOCATION - Commissioner Marshall Faircloth

PLEDGE OF ALLEGIANCE - Boy Scout Troup 745 - Eastover

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

SPEAKERS: No Speakers

Special Recognition of Carrie King – Dogwood Festival

Special Recognition of Outgoing Board Members:

Captain David Houp - Criminal Justice Partnership Advisory Board (Captain Charles Kimble accepted the Certificate for Captain Houp)
Jimmy Keefe - Tourism Development Authority

AMENDMENTS TO AGENDA: Rezoning Case P09-12 will be considered a contested case and voted on separately.

1. Consent Agenda

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

SECOND: Commissioner King

VOTE: UNANIMOUS

- A. Approval of minutes for the May 4, 2009 regular meeting and May 5, 2009 Special Meeting with the Fire Departments.

ACTION: Approve

- B. Approval of Purchase of Used Equipment for Solid Waste Department.

BACKGROUND: Robert Howard, Solid Waste Director, requests permission to purchase a used CAT D6NXL (Serial # DJ00639) with approximately 395 hours of service time. Gregory Poole has this used machined for \$155,000. Solid Waste has been renting a machine like this for \$5,953 per month. A new machine would cost \$230,000. This equipment comes with a 1,000 hour Powertrain Warrant.

ACTION: Approved purchase as noted above and associated budget revision (B09-366).

- C. Approval of Sale to Daryl Ray Bowen of Surplus County Property Consisting of a Mobile Home and Lot Located at 4827 Burgaw Drive, Fayetteville for \$20,000, Said Sale Having Been Properly Advertised and the 10-Day Upset Period Having Passed.

BACKGROUND: The Community Development Department negotiated an offer to purchase county-owned property at 4827 Burgaw Drive, Fayetteville, NC, with George C. Stump, Jr. and wife Glenda, for \$15,000. Daryl Ray Bowen submitted an upset bid in the amount of \$20,000. The property is a mobile home and lot acquired by the County through foreclosure approximately two years ago. The county had a lien of \$68,135 for a Crisis Housing Assistance fund at the time of the foreclosure but the general disrepair of the property and subsequent vandalism has substantially reduced the property's value. Any funds recovered above the administrative expenses would go to the State for the CHAF program. CHAF has signed off on the offer and has indicted in writing that the County would not be responsible for any difference between the loan amount and the purchase price.

ACTION: Approve the sale and authorize the Chairman and Clerk to execute the deed on behalf of the County. Authorize Community Development to refund the Stump deposit and remit the net proceeds to the State pursuant to the terms of the CHAF program..

- D. Budget Revisions:

ACTION: Approve

- (1) Workforce Development

- a. Senior Aides Stimulus/Local Senior Aides Stimulus - Revisions in the amount of \$507,589 to budget reduction in stimulus funding. (B09-363 and B09-363A) **Funding Source – State and General Fund Fund Balance**

b. Senior Aides Grant – Revision in the amount of \$24,200 to budget additional state funds. (B09-364) **Funding Source - State**

(2) Juvenile Crime Prevention Programs

Revision in the amount of \$20,000 to reduce the county budget due to a reduction in State funding. (B09-365) **Funding Source- State**

(3) Civic Center/Prepared Food & Beverage Funds

Revision in the amount of \$20,000 to transfer funds from the Prepared Food and Beverage Fund to the Civic Center Fund to fund architectural and engineering surveys to evaluate the electrical and mechanicals systems at the Crown Theater and Arena. (B09-367 and B09-367A) **Funding Source - Prepared Food & Beverage Fund Fund Balance**

2. Public Hearings

Uncontested Rezoning Cases

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

MOTION: Commissioner Edge moved to follow the Planning Board recommendation on Rezoning Cases A,B,C,D,&F. (Note: Case E will be considered separately)
SECOND: Commissioner Keefe
VOTE: UNANIMOUS

- A) Case P09-01. Rezoning of 1.50+/- acres from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district, located at 3662 Gabe Smith Road, owned by Thadius and Annie L. Boatwright.

The Planning Board recommends approval of R40A.

- B) Case P09-02. Rezoning of 2.00+/- acres from A1 Agricultural to A1A Agricultural, or to a more restrictive zoning district, located at 11519 Dunn Road, owned by Helen and Luis Linares.

The Planning Board recommends approval of A1A.

- C) Case P09-08. Rezoning of 1.69+/- acres from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district, located at 1701 Hallina Drive, owned by Amy Lynn Parks and Larry E. Parks, Sr.

The Planning Board recommends approval of R40A.

- D) Case P09-09. Rezoning of 4.50+/- acres from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district, located at 10595, 10603 & 10619 Colliers Chapel Church Road, owned by Connie McBryde, Tynisha L. and Antoinette L. McNeill.

The Planning Board recommends approval of RR.

- E) Case P09-12. Rezoning of 1.59+/- acres from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district, located at 7735 Sim Canady Road, owned by Earl R. Slappe, III.

The Planning Board recommends approval of R40A.

The Chairman opened the Public Hearing.

SPEAKERS:

Earl Slappe, III - Mr. Slappe said he wanted to rezone the property so he could put a house on it for his mother to live in.

Evelyn Stephenson – Ms. Stephenson said she was unable to attend the Planning Board meeting and wanted to find out more about this rezoning. She said she wanted to be sure this rezoning would not result in a mobile home park. She is trying to sell her property and concerned about the value.

The Public Hearing was closed.

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 Blackwell moved to follow the recommendation of the Planning Board and rezone the property R40A.

SECOND: Commissioner Council

VOTE: UNANIMOUS

- F) Case P09-13. Rezoning of 1.70+/- acres from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district, located at 6614 & 6624 Faircloth Bridge Road, owned by Sanford L. & Sharon A. Isham.

The Planning Board recommends approval of R40A.

Conditional Use District & Permit Case

- G) Case P09-11. Rezoning of 6.00+/- acres from R6A Residential to C(P) Planned Commercial, or to a more restrictive zoning district, located on the south side of Charmain Street, west of Murchison Road, owned by Charmain Company, LLC.

The Planning Board recommends approval of the C(P) Planned commercial/CUD Conditional Use District and Permit, provided that upon development public sewer will be extended and connected to serve the development.

The Chairman opened the Public Hearing.

SPEAKERS – An oath was administered to each speaker.

Neil Yarborough – representing the Charmain Company, LLC. Mr. Yarborough noted that the Planning Staff and Planning Board recommended approval of this rezoning with conditions as noted at the Planning Board meeting. He said his clients have agreed to the conditions and the site plan will be reviewed by the Planning Department. He noted the need for public sewer in this area and said he hoped this project would encourage the City of Fayetteville to annex this area. He noted the area has not been annexed because of the tax base and this project would add to the tax base in the area.

Joseph Tolley – Mr. Tolley said he was not really opposed to the rezoning, but wanted to reiterate the need for public sewer in the area. He said he has been trying to get the City to annex the property. He noted that he would like to know where the sewer will run. He said if it runs from Murchison Road, the Shaw Heights area will be a dead area. He noted the importance of running the sewer from Tammy Street into the area. Mr. Tolley noted he owns 25 acres in the Shaw Heights area and hopes the Charmain Company will contact him regarding the sewer, as he feels the two of them should work together in bringing public sewer to the area. He noted his property is in a water shed and he is unable to develop it at this time. He said this area was promised public sewer 25 years ago and still nothing has happened.

Commissioner King inquired of Mr. Yarborough if the Charmain Company would be willing to work with Mr. Tolley. Mr. Yarborough noted the Charmain Company is on track with Mr. Tolley in trying to get public sewer to this area. He said he hoped this rezoning would encourage the City to annex the area.

The Public Hearing was closed.

MOTION: Commissioner Edge moved that the Board of Commissioners finds that this conditional use district overlay application is reasonable, neither arbitrary nor unduly discriminatory, and in the public interest and that the conditional use(s) be approved as described in the staff agenda memorandum.

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Edge moved that the Board of Commissioners funds 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.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS

Other Public Hearings

- H) Public Hearing for the Purpose of Taking Comments with Regards to the Creation of the Proposed Overhills Park Water & Sewer District.

BACKGROUND: The Public Utilities Director, Tom Cooney, requests the Board of Commissioners establish a Water & Sewer District in the Overhills Park Subdivision and adjoining properties for the purpose of obtaining grants and low interest loans from both State and Federal sources. The first step in this process is to hold a public hearing to receive comments from the public. Overhills Park Subdivision has been experiencing septic tank failures resulting in property owners having to vacate their property and in some cases properties have gone into foreclosure.

The Chairman opened the public hearing.

SPEAKERS: No speakers.

The Chairman closed the public hearing.

NO ACTION NEEDED

REGULAR AGENDA ITEMS

3. Consideration of a Resolution Requesting Contingency Funding to Construct a Turn Lane to Serve a Proposed Industrial Recycling Facility to be Built by Clear Path Recycling LLC on Highway 53 East.

BACKGROUND: Representative Margaret Dickson is working with Speaker Joe Hackney and Senator Tony Rand is working with President Pro Tem Marc Basnight to secure a \$100,000 in contingency funding for NCDOT to fund construction of a turn lane to serve the recently announced industrial recycling facility to be built in Cumberland County on Hwy. 53 East.

ACTION: Adopt Resolution requesting this funding.

RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS REQUESTING FUNDING FROM CONTINGENCY SOURCES FOR A TURN LANE TO SERVE AN INDUSTRIAL RECYCLING FACILITY OF CLEAR PATH RECYCLING LLC ON HIGHWAY 53 EAST OF INTERSTATE HIGHWAY 95 IN CUMBERLAND COUNTY

WHEREAS, DAK Americas and Shaw Industries have announced a joint venture, Clear Path Recycling LLC, to produce Recycled PET from post-consumer PET bottles, to be used as a feedstock to enhance the value of polyester-based products of both companies; and

WHEREAS, Clear Path Recycling plans to build a facility to recycle over 280 million pounds annually of PET, or about 5 billion bottles, on Highway 53 in Cumberland County east of Interstate Highway 95; and

WHEREAS, Clear Path Recycling anticipates creating about 100 new jobs with average wages of from \$11 to \$45 an hour and with health and retirement benefits; and

WHEREAS, the new industrial recycling facility will be the largest PET recycling plant in North America; and

WHEREAS, traffic generation studies suggest that it would be appropriate to provide a turn lane to facilitate vehicle movements into and from the industrial recycling facility; and

WHEREAS, it is expected that the turn lane will promote economic development in the Cumberland County area by allowing safer and more efficient ingress and egress by customers and employees to the industrial recycling facility to be built on Highway 53 east of Fayetteville in Cumberland County, and also will improve safety for travelers and reduce congestion along the Highway 53 corridor to and from Fayetteville and Interstate I-95 by reducing conflicting movements between vehicles entering the facility and through traffic on Highway 53; and

WHEREAS, the North Carolina Department of Transportation requires funding for the proposed turn lane improvements and needs appropriation of contingency funding from the FY 2008-2009 budget to assemble the funding for the turn lane project,

NOW, THEREFORE, BE IT RESOLVED, that the Cumberland County Board of Commissioners hereby requests the allocation of contingency funding for the North Carolina Department of Transportation for construction of a turn lane to serve an industrial recycling facility to be built by Clear Path Recycling LLC on Highway 53 in Cumberland County east of Interstate Highway 95.

MOTION: Commissioner King moved to approve.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS

4. Consideration of Policy Committee Report and Recommendations Regarding Revisions to Economic Development Investment Policy for “Gateway” Projects.

BACKGROUND: The Policy Committee met on May 7, 2009 and recommended approval of revisions to the County’s Economic Development Investment Policy for “Gateway” projects. The revisions would authorize and establish guidelines for incentives to “gateway” economic development projects, contingent on municipal incentives of at least \$250,000 over time, and would be up to but not more than the municipality’s incentives in any fiscal year. In addition, the Chamber of Commerce would have to estimate to the Board of Commissioners that the project has reasonable potential to stimulate from the project, and neighboring property or development impacted by the project, a return to the County of property tax revenues over a ten-year period of at least \$250% of the County’s incentive payments. The Chamber would also have to conduct a review of the economic feasibility of the project and recommend it. The financial support may be provided by loan or grant and could be used for site clearance, site grading, and infrastructure such as roads, sidewalks, utilities, fiber-optic or wireless communications facilities, etc.

ACTION: Approve revisions.

MOTION: Commissioner Blackwell moved to approve.

SECOND: Commissioner King

VOTE: UNANIMOUS

5. Nominations to Boards and Committees

A. ABC Board (1 Vacancy)

Vacancy: Eddie Maynor is completing his first term and is eligible for reappointment.

Nominee: Eddie Maynor (reappointment)

B. Adult Care Home Community Advisory Committee (2 Vacancies)

Vacancies: Herman Jean Bradley is completing first term and is eligible for reappointment.
John Poulos is completing his second term and is not eligible for reappointment.

Nominees: Herman Jean Bradley (reappointment)
Ralph Cascasan

C. Animal Services Board (1 Vacancy)

Vacancy: Patricia Rigsby (City of Fayetteville Representative) completing first term and is eligible for reappointment.

Nominee: Patricia Rigsby (reappointment)

D. Board of Adjustment (2 Vacancies)

Vacancies: Joseph Dykes has completed first term and is eligible for reappointment.
George Quigley has completed first term and is eligible for reappointment.

Nominees: Joseph Dykes (reappointment)
George Quigley (reappointment)

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

Vacancy: Shanessa Fenner (at-large representative) resigned. Kimberly Reeves has been recommended to fill the slot.

Nominee: Kimberly Reeves

F. Fayetteville Area Convention & Visitors Bureau (1 Vacancy)

Vacancy: John Mitchell (at-large member) has completed second term. Gwen Holloman has been recommended to fill the slot.

Nominee: Gwen Holloman

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

Vacancy: Sheryl Lewis has completed first term and is eligible for reappointment.

Nominee: Sheryl Lewis (reappointment)

H. Human Relations Commission (2 Vacancies)

Vacancies: Lynette Gardner has completed second term. Fill the vacancy.
Denise Giles has completed second term. Fill the vacancy.

Nominees: Rev. Joe Fleming, Jr.
Muhammad Lodhi

I. Joint Planning Board (2 Vacancies)

Vacancies: Lori Epler has completed first term and is eligible for reappointment.
Sara Piland has completed first term and is eligible for reappointment.

Nominees: Lori Epler (reappointment)
Sara Piland (reappointment)

J. Jury Commission (1 Vacancy)

Vacancy: Monika Simmons has completed second term and is not eligible for reappointment.

Nominee: Edgar Merritt

K. Workforce Development Board (2 Vacancies)

Vacancies: John Davidson (private sector) has completed first term and is eligible for reappointment.
Hubert Owens (private sector) has completed first term and eligible for reappointment.

Nominees: John Davidson (reappointment)
Hubert Owens (reappointment)

6. Appointments to Boards and Committees

ACTION: Appoint nominees noted below for A-C.

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

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS

- A. Child Homicide Identification and Prevention (CHIP) Council (2 Vacancies)

Nominees:

Representative of the General Public: Louis Hackett (Reappointment)

Representative of Primary Care: Dr. Allen McLaughlin (Reappointment)

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

Nominee: Older Consumer: Deborah Atkinson

- C. Minimum Housing Appeals Board (1 Vacancy)

Nominee: Alternate Members: Steve Hogan

7. Closed Session: A. Acquisition of Parcel(s) of Real Estate
Pursuant to NCGS 143.318.11(a)(5).

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

SECOND: Commissioner Blackwell

VOTE: UNANIMOUS

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

SECOND: Commissioner King

VOTE: UNANIMOUS

MOTION: Commissioner Blackwell moved to adjourn.

SECOND: Commissioner Edge

VOTE: UNANIMOUS

MEETING ADJOURNED: 8:30PM.

Marsha Fogle, Clerk to the Board