

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 8, 2009 - 9:00 AM
117 Dick Street, 1st Floor, Room 118
REGULAR MEETING

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

INVOCATION Commissioner Jeannette Council, Chairman

Minister: Rev. Frederick Hill, Assistant Pastor - Friendship Missionary Baptist Church

Pledge of Allegiance

Special Recognition - Commissioner Kenneth Edge Elected as Second Vice President of the North Carolina Association of County Commissioners

CHANGES TO THE AGENDA:

Commissioner Keefe requested that item 1G3 be pulled for discussion.

1. Consent Agenda

MOTION: Commissioner King moved to approve all consent items with the exception of 1G3.

SECOND: Commissioner Edge

VOTE: Unanimous

- A. Approval of minutes for the August 17, 2009 regular meeting and the August 17, 2009 Special Meeting (recessed and adjourned on August 24, 2009).
- B. Approval of Scheduling a Public Hearing and Consideration of Resolution of Intent to Close a Portion of Spruce Street Located Between Walnut Street (now known as Stonecastle Street) and Maple Street.

BACKGROUND: Property owner Mr. George Jefferson Kelly petitioned that a portion of Spruce Street located in Pearce's Mill Township be closed.

The Department of Transportation confirms that this portion of Spruce Street between Walnut Street (now known as Stonecastle Street) and Maple Street is not a State maintained road and has no objection to the abandonment. The Fire Marshall also does not object. The Planning Department recommends approval of the closing provided the following conditions are complied with:

- 1. The parcels indentified by PIN: 0425-97-3198-; 0425-97-4158- & 0425-97-5137- are recombined together into one lot with a minimum of 20 feet of road frontage;

2. If only half of Spruce Street it to be combined with the three lots, then the remaining half of Spruce Street must be combined with the property to the east PIN: 0425-97-8056-;
3. The recombination plat must be submitted to the Planning & Inspections Department Meeting the platting requirements prior to being recorded at the Register of Deeds office.

Mr. Kelly has provided the County with an executed deed which meets the Planning Departments requirements and has submitted a plat which meets the plotting requirements.

Pursuant to G. S. 153A-241, if the Board desires to honor the request, the Board must declare its intent to close a portion Spruce Street between Walnut Street (now known as Stonecastle Street) and Maple Street and call for a public hearing on the matter. I have attached a resolution for your consideration. The resolution will (1) authorize the Board to set a public hearing to consider whether to close a portion of Spruce Street, (2) direct that notice be published once a week for four successive weeks before the hearing, and (3) direct that a notice of the closing and public hearing be prominently posted in at least two places along the street during that time. Staff will also mail a copy of the notice to the other property owners adjoining the Spruce Street.

ACTION: Adopt resolution calling for a public hearing and declare the Board's intent to consider the petition to close a portion of Spruce Street.

**RESOLUTION OF INTENT TO CLOSE PUBLIC ROAD
AND CALL FOR PUBLIC HEARING ON THE QUESTION**

WHEREAS, George J. Kelly submitted a petition to the Cumberland County Board of Commissioners (the "Board") to close a portion of Spruce Street located between Walnut Street (now known as Stonecastle Street) and Maple Street Pearce's Mills Township, Cumberland County; and

WHEREAS, it appears that such public street is not under the control of the North Carolina Department of Transportation: that no person would be deprived of reasonable means of ingress and egress to his or her property by such closing; and that such closing would therefore not be contrary to the public interest;

NOW, THEREFORE, BE IT RESOLVED, that the Board will consider the issue of whether to close the following public street in accordance with North Carolina General Statute, Section 153A-241:

Beginning at the northeast corner of lot 32 Block H as shown on a plat of Southlawn, recorded in Plat Book 10, page 1 Cumberland County Registry. Thence with the eastern line of said lot South 0 degrees 14 minutes East 185 feet to the Southeast corner of said lot. Thence crossing Spruce Street North 89 degrees 46 minutes East 40 feet the southwest corner of lot 15 block I of the aforementioned plat. Thence with the western line of lot 15; North 0 degrees 14 minutes West 185 feet to the Northwest corner of lot 15. Thence crossing Spruce Street, South 89 degrees 46 minutes West 40 feet to the point and place of beginning

AND BE IT FURTHER RESOLVED, that the Board calls for and shall hold a public hearing on the question of the closing of such street on the 19th day of October, 2009 at 6:45 p.m. in the Commissioners Meeting Room (Room 118), First Floor, New Courthouse, 117 Dick Street, Fayetteville, North Carolina. The Board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual's property rights.

AND BE IT FURTHER DIRECTED, that notice of consideration of whether to close said street and of the public hearing on such matter shall be published once week for four successive weeks before the hearing in a newspaper of general circulation in Cumberland County and posted in at least two places along the street during the time; and that a copy of this resolution shall be sent by mail to each owner as shown on the

county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed.

This the 8th day of September, 2009

C. Approval of Scheduling a Public Hearing and Consideration of Resolution of Intent to Close a Portion of Deaver Circle.

BACKGROUND: Property owners Charles and Nancy Umstead and Robert and Jennie Bleeker petitioned that a portion of Deaver Circle located in Rockfish Township be closed.

The Department of Transportation confirms that this portion of Deaver is not a State maintained road and has no objection to the abandonment. The Fire Marshall and the Planning Department have no objection to the closing.

Pursuant to G. S. 153A-241, if the Board desires to honor the request, the Board must declare its intent to close a portion of Deaver Circle. I have attached a resolution for your consideration. The resolution will (1) authorize the Board to set a public hearing to consider whether to close a portion of Deaver Circle, (2) direct that notice be published once a week for four successive weeks before the hearing, and (3) direct that a notice of the closing and public hearing be prominently posted in at least two places along the street during that time. Staff will also mail a copy of the notice to the other property owners adjoining Deaver Circle.

ACTION: Adopt resolution calling for a public hearing and declare the Board's intent to consider the petition to close a portion of Deaver Circle.

RESOLUTION OF INTENT TO CLOSE PUBLIC ROAD
AND CALL FOR PUBLIC HEARING ON THE QUESTION

WHEREAS, Charles and Nancy Umstead and Robert and Jennie Bleeker submitted a petition to the Cumberland County Board of Commissioners (the "Board") to close a portion of Deaver located in Rockfish Township, Cumberland County; and

WHEREAS, it appears that such public street is not under the control of the North Carolina Department of Transportation: that no person would be deprived of reasonable means of ingress and egress to his or her property by such closing; and that such closing would therefore not be contrary to the public interest;

NOW, THEREFORE, BE IT RESOLVED, that the Board will consider the issue of whether to close the following public street in accordance with North Carolina General Statute, Section 153A-241:

Beginning at an iron stake in the eastern edge of the right-of-way of Deaver Circle and in the northern boundary line of Village Green Associates Phase II (2750/557) and being the Southwest corner of parcel 0404-45-6313; thence North 7 degrees 2 minutes 8 seconds East 169.12 feet to the iron stake being the Northwest corner of said parcel; thence North 78 degrees 22 minutes 18 seconds West 60.18 feet more or less across Deaver Circle to the of the Eastern boundary line of Parcel 0404-45-4420 owned by Charles Umstead (6648/839); thence with said boundary line South 7 degrees 2 minutes 8 seconds West 175.00 feet to a point in the northern boundary line of Village Green Associates Phase II (2750/557); thence with said northern boundary line South 83 degrees 58 minutes 39 seconds East 60 feet to the beginning.

AND BE IT FURTHER RESOLVED, that the Board calls for and shall hold a public hearing on the question of the closing of such street on the 19th day of October, 2009 at 6:45 p.m. in the Commissioners Meeting Room (Room 118), First Floor, New Courthouse, 117 Dick Street, Fayetteville, North Carolina. The Board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual's property rights.

AND BE IT FURTHER DIRECTED, that notice of consideration of whether to close said street and of the public hearing on such matter shall be published once week for four successive weeks before the hearing in a newspaper of general circulation in Cumberland County and posted in at least two places along the street during the time; and that a copy of this resolution shall be sent by mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed.

This the 8th day of September, 2009

- D. Approval for Solid Waste Department to Purchase Used Equipment (Model No. CAT 320 CL).

BACKGROUND:

Request permission to purchase used CAT 320 CL serial number PAB06597 with approximately 2,555.8 hours on it for use at the landfill. This machine will come with a 500-hour Powertrain Warranty. Gregory Poole has a used machine for \$130,000.00 which they will sell to the County for \$111,280.00. Solid Waste Management has been renting a machine like this for \$5,203 per month. Monies were budgeted under capital outlay for this equipment.

This machine has been on rental fleet, is in very good to new condition, and it is believed that Cumberland County will be saving a lot of money in the purchase of this machine as a machine like this would need to be purchased within the near future.

The County has paid \$26,000.00 in rent on this machine and it owes \$10,406.00 in rent (if it is not purchased). Gregory Poole offered to sell the County the machine using 70% of the \$26,000.00 paid in rent, which would be \$18,200.00. This amount would be subtracted from the \$130,000.00 asking price and they would add back \$817.00 that they have spent in servicing this equipment.

Offer was made to the CAT salesman to purchase this machine for \$104,000.00 (the original asking price minus the total monies paid in rent) plus \$4,680.00 state sales tax, \$2,600.00 county sales tax for a total of \$111,280.00 with no payment of rent owed.

ACTION: Approve purchase of CAT 320 CL as requested.

- E. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – Lot 53 – PIN 0447-40-3469, Cross Creek Township.

BACKGROUND: On or about April 3, 2006, 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 \$5,362.25.

Saif Anakeb has offered to purchase the County's interest in the property for **\$5,362.25** and has deposited \$536.23 in the Finance Office. The tax value of the property is \$8,254.00.

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. Anakeb'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 Saif Anakeb to purchase the above property for the sum of \$5,362.25, plus costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- F. Approval of a Proclamation Proclaiming September 19-October 3, 2009 as "Fall Litter Sweep" in Cumberland County.

BACKGROUND: Governor Purdue has proclaimed September 19-October 3, 2009 as “Fall Litter Sweep” in North Carolina. The Governor has encouraged local governments to issue similar proclamations concerning the NCDOT Litter Sweep Roadside Cleanup.

ACTION: Adopt proclamation.

CUMBERLAND COUNTY

NORTH CAROLINA

2009 FALL LITTER SWEEP PROCLAMATION

WHEREAS, the North Carolina Department of Transportation organizes an annual Fall statewide roadside cleanup to ensure clean beautiful roads in North Carolina; and

WHEREAS, the Fall 2009 “*LITTER SWEEP*” roadside cleanup will take place September 19-October 3, 2009, and encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate by sponsoring and organizing local roadside cleanups; and

WHEREAS, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during “*LITTER SWEEP*” and may receive certificates of appreciation for their participation; and

WHEREAS, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

WHEREAS, the cleanup will celebrate the 21st Anniversary of the North Carolina Adopt-A-Highway program and its 5,750 volunteer groups that donate their labor and time year round to keep our roadsides clean; and

WHEREAS, the “*LITTER SWEEP*” cleanup will be part of educating the children of this great State and County regarding the importance of a clean environment to the quality of life in North Carolina; and

NOW THEREFORE, the Cumberland County Board of Commissioners hereby proclaims September 19-October 3, 2009 as “*FALL LITTER SWEEP*” in Cumberland County and encourages all citizens to take an active role in making the County cleaner and more beautiful.

This 8th day of September, 2009.

G. Budget Revisions:

ACTION: Approve Budget Revisions

(1) Recreation and Parks

Revision in the amount of \$5,000 to appropriate fund balance for the purchase of bleachers at Gray’s Creek Elementary School. (B10-067) Funding Source – Recreation and Parks Fund Balance

(2) Health

- a. Women's, Infant's, Children - Revision in the amount of \$2,103 to budget additional state funding. (B10-053) Funding Source – State
- b. Environmental Health – Revision in the amount of \$4,437 to budget additional state funding. (B10-054) Funding Source - State

(3) Community Development

Revision in the amount of \$286,690 to budget American Recovery and Reinvestment Act (ARRA) funds for phase I of the Freedom Business Center Park located in Spring Lake. (B10-055) Funding Source – Federal

Commissioner Keefe questioned the stipulations of the payback of this loan and Thanena Wilson, Community Development Director, responded that the loan is a 15 year loan at 5% interest. The loan has not closed at this time, but this request is being made to get the monies into the budget. Commissioner Keefe voiced his concern about what recourse is available should there be a default in payment. Ms. Wilson advised that options would be looked at, but foreclosure is an option. Interim County Attorney Raynor explained that the County's Deed of Trust on the property would not be a first lien due to the size of the project and the use of a commercial loan for the primary financing. He further explained that should the loan default and the County foreclose it would have to assume the first lien in order to acquire the property to satisfy the County's loan, and that at that time the County would have to see if there was sufficient equity in the property to justify foreclosing. Commissioner King stated that he feels the legal staff would take precautionary measures for all loans that are made and it was pointed out that this is not the first time that the County has been in the second position on a large loan and that this is not the largest loan that Community Development has handled. County Manager Martin stated he felt comfortable with the approval of this item.

MOTION: Commissioner King moved to approve.

SECOND: Commissioner Blackwell

DISCUSSION: Chairman Council confirmed with Ms. Wilson that no foreclosures have been made on any loans of this amount as arrangements have always been worked out in order for the loans to be paid in full. Commissioner Keefe stated that with this being a private company he wanted to ensure that the County is protected.

VOTING FOR: Commissioners Faircloth, Blackwell, King, Council, Edge and Melvin.

VOTING AGAINST: Commissioner Keefe

(4) Library

- a. Smart Start - Revision in the amount of \$10,558 to recognize reduction in state funding. (B10-058) Funding Source – State
- b. MotherRead – Revision in the amount of \$1,814 to recognize reduction in state funding. (B10-059) Funding Source – State

(5) Sheriff's Grants

Revision in the amount of \$253,585 to recognize US Department of Justice Grant, \$81,284 allocated to Cumberland County and \$172,301 allocated to the City of Fayetteville. (B10-068) Funding Source - Federal

(6) Juvenile Crime Prevention Programs

Revision in the amount of \$99,400 to budget a JCP Intensive Services Grant. (B10-070) Funding Source- State

(7) Water & Sewer Fund

Revision in the amount of \$55,000 to reallocate budgeted expenditures to fund a contract for design and bid documents for a proposed water line extension from Bladen County to the Southpoint and Chicken foot/County Line road area. (B10-069) Funding Source- Reallocation of Budgeted Expenditures

(8) E-911 Fund/General Fund

Revision in the amount of \$3,280,951 to close the E-911 Fund and transfer its residual equity to the General Fund to be used for future communication projects/expenses. (B09-454 and B09-454A) Funding Source- Fund Balance Appropriated

(9) Coliseum Capital Project Fund/Civic Center Fund

Revision in the amount of \$1,500 to close the Coliseum Capital Project Fund and transfer its residual equity to the Civic Center Fund. (B09-455 and B09-455A) Funding Source - Fund Balance Appropriated

ITEMS OF BUSINESS

2. Presentation by Brenda Reid Jackson, DSS Director Regarding Designation of Child Support Enforcement Administration.

BACKGROUND: The State of North Carolina will be eliminating funding for State operated Child Support Enforcement Office in 28 counties effective July 1, 2010. The Board of County Commissioners shall administer or provide for the administration of the program in Cumberland County effective July 1, 2010.

Cumberland County must submit a plan to the Department of Health & Human Services, Division of Social Services no later than January 1, 2010 outlining the proposed county administration of the child support enforcement program.

ACTION: Approve the designation of the Cumberland County Department of Social Services as the Child Support Enforcement agency and Brenda Jackson, DSS Director, as the lead contact.

Brenda Jackson, DSS Director, provided a power point presentation highlighting the following points:

- Funding for State operated child support offices in 28 counties will be eliminated effective July 1, 2010.
- The Board of County Commissioners shall administer or provide for the administration of the program at that time.
- A plan must be submitted to the State by January 1, 2010 outlining the proposed county administration of the child support enforcement program.
- 30% State projected County cost is \$770,000 annually (local projections indicate cost upward to \$1 million annually).
- Stakeholders affected – customers, local child support office, court system, sheriff's department, local law enforcement, office of state personnel/county HR, designated agency with the NC DHHS-Division of Social Services continuing supervisory and oversight responsibility.
- Four options (county government administration, privatization, regionalization or contract with the State) presented for the administration of the program from which the Board of Commissioners must approve.
- A designation of the lead agency and lead contact is needed in order to identify and initiate action steps needed for the transition due to the short timeframe requirements.

Commissioners agreed that each of the four options should be explored before making a decision on the administration of the program. County Manager Martin expressed concern over the fiscal impact on the County between this and other things that have been shifted from the State to the local counties resulting in Cumberland County taking on an additional expense of \$2 million in the next fiscal year.

MOTION: Commissioner Edge moved to approve the designation of the Cumberland County Department of Social Services as the Child Support Enforcement agency and Brenda Jackson, DSS Director, as the lead contact.

SECOND: Commissioner Blackwell

VOTE: Unanimous

3. Nominations to Boards and Committees

A. Air Quality Stakeholders' Committee (1 Vacancy)

Vacancy: Individual representative needed for Town of Falcon

Nominee: Janice Lucas

B. Cumberland County Juvenile Crime Prevention Council (2 Vacancies)

Vacancies: Mr. Henry Berry is unable to serve his second term.
Rev. Brian Thompson has served 2 terms and is not eligible for reappointment

Nominees: Gudron Blackmon – At Large position
Rev. Fred Hendley – Member of Faith Community position

4. Appointments to Boards and Committees

MOTION: Commissioner King moved to approve the nominees listed.

SECOND: Commissioner Faircloth

VOTE: Unanimous

A. Board of Adjustment (1 Vacancy)

Nominee: John Swanson

B. Cumberland County Finance Corporation and the Cumberland County Industrial Facilities and Pollution Control Financing Authority (4 Vacancies)

Nominees: Clifton McNeill, Sr. (Reappointment)
Timothy S. Richardson (Reappointment)
Ronald C. Crosby, Jr.
Mark W. McCallum

C. Cumberland County Local Emergency Planning Committee (3 Vacancies)

Nominees:

Law Enforcement Representative: Sgt. Erwin Montgomery (Reappointment)
Charles F. Kimble (Reappointment)

Hospital Representative: Scott Turner

D. Fayetteville-Cumberland Senior Citizens Advisory Commission (2 Vacancies)

Nominees: Tom Cain
Brenda Brown

E. Southeastern Economic Development Commission

Nominee: Juanita Pilgrim (Reappointment)

5. Closed Session A. If Needed
(No Closed Session Needed)

MOTION: Commissioner Blackwell moved to adjourn.

SECOND: Commissioner King

VOTE: Unanimous

MEETING ADJOURNED AT 10:12 AM

Marie Colgan, Clerk to the Board