

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MAY 16, 2011 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING

PRESENT: Chairman Kenneth Edge
Commissioner Jeannette Council
Commissioner Charles Evans
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Communication & Strategic Initiatives Manager
Tom Lloyd, Director of Planning & Inspections
Candice White, Deputy Clerk to the Board
Marie Colgan, Clerk to the Board

INVOCATION - Commissioner Billy R. King

PLEDGE OF ALLEGIANCE – Thalya Council, 1st Grader, Ferguson-Easley Elementary School

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM) - County Manager James Martin read the policy for the Public Comment period. The Board agreed to put aside the time limit and hear all seven speakers.

Speakers:

Regina Wills – Ms. Wills of 4679 Hummingbird Place, Fayetteville, NC, stated she is representing herself and her husband. Ms. Wills voiced her concern with the Cumberland County Inspections Department with regard to the quality of home inspections being performed in the county. Ms. Wills posed numerous questions to the Commissioners regarding responsibility of inspections staff oversight.

Christopher Mitchell – Mr. Mitchell, Chairman of the City/County Joint Appearance Commission, provided a handout to the Board with information on the 3rd Annual Community Appearance Awards Program. Mr. Mitchell highlighted the following: purpose of the program (to enhance the appearance of the community), the various categories of awards, information on the nomination process and invited all citizens to make nominations. Mr. Mitchell advised nominations will to be received prior to June 1, 2011.

Iman E. Mohammed – Iman Mohammed of 2700 Murchison Road, Fayetteville, NC, informed the Board he has been involved with BRAC for twenty years. He stated individuals coming from

Georgia are highly technical and sophisticated and asked Commissioners to be role models. He spoke regarding his role in the BRAC move, touted FSU for the building of a new Nursing facility, and requested more recreational facilities for incoming families.

Mark Sullivan – Mr. Sullivan of 275 Northpoint Road, Spring Lake, NC, stated he is the current president of the Greater Spring Lake Chamber of Commerce and asked Commissioners to recognize the explosive growth of the Spring Lake area due to BRAC. He informed the Board an economic development committee was formed as an arm of the Chamber due to the 48% population increase and because business development and growth has not kept pace. Mr. Sullivan stated they have hired a marketing firm to help promote Spring Lake, but their resources have been exhausted. Mr. Sullivan asked for the Board’s consideration of an additional \$35,000 allocation to continue marketing, developing and building the thriving community of Spring Lake.

Bob Stafford – Mr. Stafford of 250 Valleyfield Lane, Southern Pines, NC, stated he is personally involved with projects in the Spring Lake area and thanked the Commissioners for considering their current request and any future requests for helping to deal with the Spring Lake growth situation.

Billy Wellons – Mr. Wellons of 406 Overview Place, Spring Lake, NC, stated he has been in Spring Lake for forty years and that for the first time ever, they have responsible business people who are serious about Spring Lake’s future. Mr. Wellons advised there has been over \$50M to \$70M spent in new construction in the last five years and is changing the Town of Spring Lake. Mr. Wellons stated their Economic Development Committee has a small amount of resources to do things that are needed. He thanked the Board for the Board’s prior support and asked the Board to consider the amount requested by Mr. Sullivan.

Darsweil Rogers – Mr. Rogers of 1305 Stansfield Drive, Fayetteville, NC, stated he is the Chairman of the Economic Development Committee for Spring Lake and summarized ways their committee is looking for monies, emphasizing the opportunity to capitalize on their economic growth. Mr. Rogers requested the Commissioners continue to partner with them to help make Spring Lake a significant crown jewel of Cumberland County.

Special Recognition of the Air Quality Poster Contest Winners:

Mr. Mark Nottingham, Transportation Planner for the Fayetteville Area Metropolitan Planning Organization, thanked the Commissioners for recognizing the winners of the 2011 Win With Air Quality Poster Contest, stating the contest was open to all Cumberland County and Ft Bragg Elementary school students enrolled in kindergarten through fifth grade. Mr. Nottingham stated the contest was sponsored by the Fayetteville Area Metropolitan Planning Organization (FAMPO) and the NC Department of Environment and Natural Resources (DENR). Mr. Nottingham noted there were over 900 poster entries this year. Chairman Edge and Mr. Nottingham recognized the winners and presented them with a certificate.

Kindergarten-2nd Grade

1st Place - Destiny Butts from Alpha Academy

2nd Place- Lance Wenban from C. Wayne Collier

3rd Place- Shelby Fisher from College Lakes

Honorable Mentions:
Malachi Robinson from Long Hill
Logan Byrd from C. Wayne Collier
Stella Valenzuela from Long Hill

3rd Grade-5th Grade
1st Place- Alexis Arnold from Benjamin Martin
2nd Place- Lana Hong from Long Hill
3rd Place- Rebeca Poplar from Long Hill

Honorable Mentions:
Samuel Marquez from E. Melvin Honeycutt
Alex Zeigler from New Century
Katie Stewart from Long Hill

County Manager James Martin requested a Closed Session be added under Item 10, Attorney-Client Matter(s) pursuant to NCGS 143-318.11(a)(3)

1. Approval of Agenda

MOTION: Commissioner Melvin moved to approve the agenda with the addition of the Closed Session item as requested.
SECOND: Commissioner Council
VOTE: UNANIMOUS

2. Consent Agenda

A. Approval of minutes for May 2, 2011 regular meeting and May 2, 2011 special meeting with the Legislative Delegation.

B. Approval of Proposed Additions to the State Secondary Road System:

Bonita Farms Subdivision: Bonita Farms Road, Royal Pines Circle
Country View Lane

BACKGROUND: The North Carolina Department of Transportation has received petitions requesting the above streets be placed on the State Secondary Road System for maintenance. DOT has determined that the above streets are eligible for addition to the state system.

RECOMMENDATION/PROPOSED ACTION: NCDOT recommends that the above named streets be added to the State Secondary Road System. County Management concurs. Approve the above listed streets for addition to the State Secondary Road System.

C. Approval of Transfer of Public Health Regional Surveillance Team Equipment as a Result of the Division of Public Health Downsizing and Redistricting.

BACKGROUND: The Division of Public Health is downsizing and redistricting the Public Health Regional Surveillance Teams (PHRST) and as a result they are collecting most equipment purchased with federal funds. The total of all equipment, to be transferred to the State PHRST, when purchased new is \$218,571. Equipment depreciation values vary from 2002-2010. The state wants to have all items transferred by June 1, 2011.

RECOMMENDATION/ PROPOSED ACTION: Management recommends approval of the transfer of the equipment to the State PHRST.

D. Approval of Bid Award to Sport Systems Unlimited for the Cumberland County Crown Coliseum for Ice Floor Cover.

BACKGROUND: The Cumberland County Crown Coliseum received formal bids for an Insulated Floor Cover for the Crown Center. The lowest bid of \$123,830 was received by Sport Systems Unlimited.

The Crown Center budgeted \$110,000 and would like to utilize \$13,839 of money saved in their budget on prior rigging net projects.

RECOMMENDATION/PROPOSED ACTION: County Management and the County Purchasing Department recommend approval for the Cumberland County Crown Coliseum to award the bid to Sport Systems Unlimited for an Insulated Ice Floor Cover for the Crown Center.

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

- 1) One (1) Acre Ray Land; 5005 Haddock Street, PIN: 0418-18-8316, Cross Creek Township.

BACKGROUND: On or about December 6, 2007, the County acquired by tax foreclosure the above property. The amount currently owed on the foreclosure judgment including interest and costs for the property is \$4,426.52.

Marcia K. Smith has offered to purchase the County's interest in the property for \$4,426.52 and has deposited \$442.62 in the Finance Office. The tax value of the property is \$4,500.00.

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 Ms. Smith's bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

RECOMMENDATION AND PROPOSED ACTION: That the Board of Commissioners consider whether to accept the offer of Marcia K. Smith to purchase the above property for the sum of \$4,426.52, plus advertising and recording costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

2) One (1) Acre Dixon Land; PIN: 9496-31-8373, Seventy-First Township.

BACKGROUND: On or about December 4, 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 \$2,731.22.

Marcia K. Smith has offered to purchase the County's interest in the property for \$2,731.22 and has deposited \$273.12 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 Ms. Smith's bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

RECOMMENDATION AND PROPOSED ACTION: That the Board of Commissioners consider whether to accept the offer of Marcia K. Smith to purchase the above property for the sum of \$2,731.22, plus advertising and recording costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

F. Approval of Redemption of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure.

BACKGROUND: On or about January 1, 2007, the County acquired, by tax foreclosure sale, property previously owned by Katherine Denise Bell-Hines at 5406 Parkton Road, Hope Mills, NC 28348, located in Rockfish Township. The amount owed on the foreclosure judgment plus interest and costs is \$10,614.26.

Ms. Hines, who is living in the house and a former owner, has offered as the former owner to purchase the County's interest in such property and exercise her

equity of redemption for \$10,614.26 and have deposited the \$10,614.26 with the Finance Office.

North Carolina General Statutes §105-376 and §160A-267 authorize the Board to resell property acquired by tax foreclosure to the former owner(s) or any person having an interest in the property for an amount not less than the costs associated with the foreclosure and subsequent resale. This allows former owner(s) or any person with an interest in the property to re-purchase their property, so long as the County is made whole, rather than putting the property on the open market.

PROPOSED RECOMMENDATION AND ACTION: That the Board of Commissioners' consider whether to accept the offer of Katherine Denise Bell-Hines to exercise her equity of redemption to re-purchase the property described above for \$10,614.26.

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

- 1) Case Number: MH 6145-2010
Property Owner: Ellen Oakes Bill
Property Location: 3983 Canal Street, Linden, NC
Parcel Identification Number: 0562-77-7621

Approved Ordinance can be found in the Minimum Housing Ordinance Book.

- 2) Case Number: MH 6224-2010
Property Owner: Pug Williams Heirs, c/o Nina Smith
Property Location: 6016 River Road, Wade, NC
Parcel Identification Number: 0561-38-1419

Approved Ordinance can be found in the Minimum Housing Ordinance Book.

H. Approval of a Proclamation Proclaiming May 17, 2011 as "Project Homeless Connect Day" in Cumberland County.

BACKGROUND: On May 17th, the 10-Year Plan to End Homelessness Steering Committee, in collaboration with the Fayetteville/Cumberland County Continuum of Care Planning Council, is sponsoring Project Homeless Connect from 7:30 a.m. to 1:30 p.m. at First Baptist Church on Moore Street. This one-day, one-stop event will offer services to the homeless in our community. Local agencies will provide information and applications for housing, employment services, health services, and more.

The day will begin with opening remarks highlighting the aim and purpose for the day's activities, to connect people with the various services our community has to offer. Throughout the day, participants will receive vital assistance with services many of us take for granted such as: health care screenings, job placement

opportunities, housing support, governmental services and so much more. Breakfast and lunch will also be served.

To commemorate this event and the impact that serving the homeless has on all citizens of Cumberland County, the Board is asked to proclaim May 17, 2011 as Project Homeless Connect Day.

2011 PROJECT HOMELESS CONNECT DAY

PROCLAMATION

WHEREAS, Cumberland County is committed to ending homelessness; and

WHEREAS, on January 26, 2011 the 2011 Continuum of Care Homeless Population Point-in-Time Survey identified 1,039 homeless persons in the Fayetteville/Cumberland County area; and

WHEREAS, the Ten-year Plan to End Homelessness Steering Committee and Fayetteville/Cumberland County Continuum of Care Planning Council has identified efforts in which to address homeless issues in the City of Fayetteville and Cumberland County through the Ten-year Plan to End Homelessness; and

WHEREAS, the Cumberland County Board of Commissioners adopted this plan on October 20, 2008; and

WHEREAS, one of the goals identified in the Ten-year Plan to End Homelessness is to expand our outreach network by coordinating annual outreach efforts; and

WHEREAS, The Fayetteville/Cumberland County Ten-year Plan to End Homelessness Steering Committee and Fayetteville/Cumberland County Continuum of Care Planning Council will sponsor Project Homeless Connect on May 17, 2011 as a means of accomplishing such efforts; and

WHEREAS, Project Homeless Connect is a one-day event designed to offer vital assistance and services to include health care screenings, job placement opportunities, housing support, and governmental services in a one-stop model to persons experiencing homelessness.

Now, Therefore I, Kenneth S. Edge, by virtue of the authority vested in me as Chairman of the Cumberland County Board of Commissioners, do hereby proclaim:

May 17, 2011 as
Project Homeless Connect Day

in Cumberland County, and urge all citizens to join us in supporting this event and the Ten-year Plan to End Homelessness Steering Committee and the Fayetteville/Cumberland County Continuum of Care Planning council in its efforts to end homelessness in our community.

In Witness Whereof, I have hereunto set my hand and caused the seal of Cumberland County, North Carolina to be affixed this ____ day of ____ 2011.

RECOMMENDATION AND PROPOSED ACTION: The Community Development Department recommends that the Board of County Commissioners proclaims May 17, 2011 as Project Homeless Connect Day in Cumberland County.

- I. Approval of a Proclamation Proclaiming May 26, 2011 as “UniverSoul Circus Day” in Cumberland County.

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, the UniverSoul Circus has entered into its second decade and has become an annual event for families; and,

WHEREAS, in 2010 the circus performed in over 58 cities and this will be the first year the Circus has performed in Cumberland County; and,

WHEREAS, Ringmasters Tony Tone, Shuckey Ducky and Zeke will serve as the guides of this traveling circus; and,

WHEREAS, the UniverSoul Circus provides a one-of-a-kind showplace for performers from around the world with a blend of circus artistry and urban showmanship; and,

WHEREAS, Cumberland County is proud to have The UniverSoul Circus perform in Cumberland County and looks forward to many more performances in years to come.

NOW, THEREFORE, BE IT PROCLAIMED, that the Cumberland County Board of Commissioners proclaims Thursday, May 26, 2011 as

UniverSoul Circus Day

in Cumberland County and encourage all citizens to acknowledge this observance.

Adopted this 16th day of May, 2011.

RECOMMENDATION/PROPOSED ACTION: Adopt the UniverSoul Circus proclamation.

- J. Budget Revisions:

- (1) North Carolina Elderly Mid Carolina Senior Transportation/Rural Operating Assistance Program - Revision in the amount of \$22,222 to increase grant funds (\$20,000) and fund the required match by reallocating a transfer from the General Fund (\$2,222). (B11-362 and B11-362A) Funding Source – Grant and Reallocation of Budgeted Revenue

- (2) Eastover Sanitary Water Project – Phase II

- a. Revision in the amount of \$88,479 to recognize contractor sales tax refunds. (B11-357) Funding Source – Refunds
 - b. Revision in the amount of \$6,131 to recognize interest income and to reallocate budgeted expenditures. (B11-360) Funding Source – Interest and Reallocation of Budgeted Expenditures
- (3) Mental Health
 Juvenile Crime Prevention – Revision in the amount of \$1,582 to reconcile with the state budget. (B11-363) Funding Source – State
- (4) Animal Control
 Revision in the amount of \$2,097 to recognize donation received from Pet Smart Charities. (B11-365) Funding Source – Donation

MOTION: Commissioner King moved to approve all consent agenda items 2.A. through 2.J.4.
 SECOND: Commissioner Melvin
 VOTE: UNANIMOUS

3. Public Hearings

These are the advertised public hearings set for this date and time.

Uncontested Rezoning Cases

- A) Case P11-12: Rezoning of .34+/- acres from R10 Residential to C1(P) Planned Local Business or to a more restrictive zoning district, located at 3701 Boone Trail, submitted by Debra J. Underwood (by POA) for Betty J. Underwood on behalf of Ruby L. Cottle Heirs (owners).

The Planning Board recommends approval of the request for the C1(P) Planned Local Business district.

The Chairman opened the public hearing.
 The Clerk confirmed there were no speakers for this case.
 The Chairman closed the public hearing.

MOTION: Commissioner Faircloth moved to follow the recommendation of the Planning Board on Case P11-12.
 SECOND: Commissioner King
 VOTE: UNANIMOUS

Conditional Zoning Case

- B) Case P11-16: Rezoning of 10.08+/- acres from R10 Residential to R7.5 Residential/CUD Conditional Use District, or to a more restrictive zoning district and the Permit for a “non-profit” recreation/amusement facility, indoor and outdoor and the Permit; located on the southeast side of SR 1115 (Black Bridge Road), west of Shady Pine Court; submitted by Thurston and Charlotte Robinson (owners) and William A. Biddix. (County & Hope Mills)

Note: Public notice was initially given on this case listing it at a CUD & Permit, the heading has not been changed; however, because of the amendment changing CUDs to Conditional Zoning, approved by the BOC on April 18th, this case no longer requires a quasi-judicial hearing and does not require the two-part motion. The motion should be the same as a general rezoning case with the official designation being: R7.5 to CZ Conditional Zoning. The action memo will state this as well.)

The Planning Board recommends approval of Conditional Zoning (CZ) district.

Mr. Tom Lloyd, Director of Planning & Inspections, reminded Board members that an amendment was passed last month which changed the process from conditional use district and permit to conditional zoning, but because this case had been already advertised under the old ordinance provisions, it kept the same heading. Because of the change, the Board only has to make one motion and can be voted on like a regular zoning case. In response to a question posed by Commissioner Keefe, Mr. Lloyd explained why the Board decided to go with conditional zoning and Commissioner Keefe confirmed that should it be changed from that use, it would come back to the Board for approval.

The Chairman opened the public hearing.

The Clerk confirmed there were no speakers for this case.

The Chairman closed the public hearing.

MOTION: Commissioner Keefe moved to follow the recommendation of the Planning Board for Case P11-16.

SECOND: Commissioner Council

VOTE: UNANIMOUS

Contested Case

- C) Case P11-17: Rezoning of .74+/- acres from R20 Residential to C1(P) Planned Local Business or to a more restrictive zoning district, located at 7162 Rockfish Road, submitted by Andrew F. and Randayle C. McMillan (owners).

The Planning Board recommends denial of C1(P) Planning Local Business district.

Mr. Lloyd provided a power point visual of the area and provided background information on staff's recommendation to deny this request based on it promoting strip commercial development along Rockfish Road.

The Chairman opened the public hearing.
The Clerk confirmed there was one speaker on this case.

Speaker: Andrew F. McMillan of 8246 King Road, Fayetteville, NC, spoke in favor of the rezoning of this property to C1(P) Planned Local Business, stating it has less than one half acre between it and planned condos. Mr. McMillan stated he has had an individual show interest in purchasing it and he hopes to get it zoned commercial in order to sell it for more money. Commissioner Edge advised the Board is trying to hold off on commercial development in this area as long as possible, but expects it will eventually go commercial. In response to a question posed by Commissioner King, Mr. Lloyd stated the 2030 Plan specifically calls for curbing strip commercial development.

The Chairman closed the public hearing.

MOTION: Commissioner King moved to grant the petitioner's request in case P11-17.

SECOND: Commissioner Evans

DISCUSSION: Commissioner Council stated rules and boundaries are set for a reason and feels the Board should support the Planning Board's recommendation in order to be consistent with recent requests. Commissioner Keefe agreed with Commissioner Council's assessment. Commissioner Faircloth voiced concern that Mr. McMillan did not have a chance to voice his petition at the Planning Board due to his misunderstanding that he could not do so and noted there will be another chance next year to make the request again. Commissioner Evans confirmed the notification status by the Planning Board staff with residents in the area. Commissioner Melvin voiced his support of the property going commercial. Chairman Edge called the question.

VOTE: Voting for granting the petitioner's request – Commissioners King, Evans and Melvin. Voting against the petitioner's request – Chairman Edge, Commissioners Faircloth, Council, and Keefe.

Subdivision Ordinance Map Amendment

- D) Case P11-19: Amendment to the Cumberland County Subdivision Ordinance, modifying portions of the Town of Hope Mills and the City of Fayetteville's Municipal Influence Area (MIA) boundaries as adopted on May 19, 2008 and included as a map referenced as Exhibit 4 to Section 2302.A of the ordinance.

The Planning Board recommends approval of the MIA map amendment.

Mr. Lloyd provided background information on modifications being requested to the MIA boundaries of the Town of Hope Mills and the City of Fayetteville. Mr. Lloyd stated the two municipalities have already voted on the changes which would transfer various areas from the

City of Fayetteville to Hope Mills and others from Hope Mills to the City of Fayetteville, but the Commissioners must approve the request. Mr. Lloyd stated this request also helps the problem of development standards being required; such as sidewalks and streets, in outlying areas where they are not needed at this time.

The Chairman opened the public hearing.

The clerk verified there were 3 speakers for this case – Glenn Brock, David Averette and Dohn Broadwell. Mr. Brock and Mr. Broadwell relinquished their time to Mr. Averette.

Speakers:

David Averette of 545 E. Lakeridge Road, Raeford, NC, provided a handout of his comments and gave the following recommendations; (1) do away with all MIA's for municipalities in Cumberland County, (2) change county ordinance that requires sidewalks anywhere in Cumberland County, (3) change county ordinance that requires public water and sanitary sewer anywhere in Cumberland County, and (4) change county ordinance which requires concrete curb and gutter to be installed in Cumberland County. Mr. Averette voiced his concern that if sanitary sewer is extended up Stewarts Creek and the MIA is annexed into the City of Fayetteville, then the City would be able to annex the part of Hoke County where he lives.

Mr. Lloyd answered questions from Commissioners regarding differences in water and sewer requirements for the two municipalities and whether annexation agreements were in effect. Mike Bailey, Chief Building Inspector for Town of Hope Mills, spoke on how the changes in the MIA lines were established and how this request is only cleaning up the county's map based on the agreement reach by the City of Fayetteville and Hope Mills.

Glenn Brock of 2525 Penny Drive, Fayetteville, NC, was allowed to use the remainder of the time allowed for this case. Mr. Brock stated he has lived on Penny Drive for 26 years and is not part of an MIA and wants to keep it that way. Mr. Brock states he farms his land and bought twelve lots to keep encroachment from happening. He stated he preferred to be in the City's MIA than Hope Mills if he has to be in one.

Mr. Broadwell withdrew his name as a speaker.

Mr. Lloyd confirmed this swap of territory has been agreed upon and voted on by both the City of Fayetteville and Hope Mills. Commissioner Keefe questioned whether a public hearing for citizens had been held since this swap may affect them and Mr. Lloyd explained original notifications that were given and stated there will probably be more adjustments to the MIA's in the future.

MOTION: Commissioner Edge moved to follow the Planning Board's recommendation for case P11-19.

SECOND: Commissioner Evans

DISCUSSION: Commissioner Keefe stated he does not have enough facts to support the request.

VOTE: Voting in favor of the motion – Chairman Edge, Commissioners King, Evans, Faircloth, and Council. Voting against the motion – Commissioner Melvin and Keefe.

Items of Business

4. Consideration of Cumberland County Commissioners Districts Redistricting Analysis Based on 2010 Census.

BACKGROUND: The County Manager received a map from DemoGeoGraphics, a private consulting firm that offers services to assist local governments with redistricting. Matt Rooney with the GIS department also calculated the populations of the two commissioner districts. Both of these calculations demonstrate that the Board of Commissioners will have to re-district before the next filing period for county commissioner. As Cumberland County is one of the 40 NC counties subject to Section 5 of the Voting Rights Act, the redistricting must be pre-cleared by the Department of Justice.

DISCUSSION: The U. S. Supreme Court recognizes that “an apportionment plan with a maximum population deviation under 10% falls within [the] category of minor deviations.” *Brown v. Thompson*, 462 U.S. 835 at 842-43 (1983). Minor deviations as characterized by the court are acceptable. The deviation between Cumberland County’s two districts is 31.7%. The Board of Commissioners must take action to correct this imbalance. Since this action will require pre-clearance, the Board should commence this process soon.

The goal is to create districts that approach the “one person, one vote” ideal to the end that the maximum deviation between the two districts is less than 10%. The fundamental principle of one person, one vote is “one of equal representation for equal numbers of people, without regard to race, sex, economic status, or place of residence within a State.” *Reynolds v. Sims*, 377 U. S. 533 at 560-561 (1964). This can be accomplished as follows:

- leave the number of district-elected seats intact and shift territory and population from District 2 to District 1
- leave the district boundaries intact and increase the number of seats elected from District 2 from 3 seats to 4 seats--this produces a maximum deviation of 4.2%
- completely re-draw the district boundaries and the numbers of seats elected from each re-drawn district

The county attorney is of the opinion that the county has sufficient resources and expertise to accomplish this process in-house or the Board may choose to engage a consultant for this purpose. The first step is for the Board to determine which direction it wishes to proceed.

RECOMMENDATION/PROPOSED ACTION:

- (1) Direct staff on whether to engage an outside consultant or proceed in-house with the re-districting process; and
- (2) Express the Board's preference for proceeding with either re-establishing the district boundaries, changing the number of seats from the districts, or both.

The Board may want to consider appointing a small working group of commissioners and staff to discuss these issues and make a recommendation back to the Board before the July recess.

Rick Moorefield, County Attorney, provided the above background information advising the Board needs to address this with due speed and asked for direction on how the Board wants to proceed. Commissioner Evans confirmed that staff handled the re-districting analysis in-house after the 2000 census. Commissioner Melvin advised he is against outside consultants and supports in-house handling. Commissioner King stated he believes an impartial outside consultant should be given consideration. Commissioner Keefe stated he thinks the county should start in-house and see how it goes. Chairman Edge stated the simplest way to handle it is to leave the number of district-elected seats intact and shift the territory and population from District 2 to District 1 which would make the necessary adjustments without diminishing minority representation in any way. Commissioner Evans stated he believes the process should be kept local, but not necessarily in-house to ensure it is done in a fair and equitable way since the Department of Justice has to approve it. Commissioner Council suggested the Board take a couple of weeks to study the maps and look at the figures supplied before making a decision. Commissioner Faircloth agreed with Commissioner Council's suggestion in order to determine if outside help is needed or if it can be handled inside. Commissioner Keefe stated if the districts are left as it, every citizen can vote for the majority of the County Commissioners. After further discussion, a motion was made by Commissioner Keefe.

MOTION: Commissioner Keefe moved to direct staff to proceed with in-house redistricting processes, for the Chairman to appoint a three-person committee of Commissioners to work with the staff and to have a preliminary response back to the Board by June 20th.

RESTATED MOTION: Commissioner Keefe moved to direct staff to proceed with in-house redistricting processes, for the Chairman to appoint a group of Commissioners to work with staff and to have a preliminary response back to the Board by June 6th.

Chairman Edge advised he will not be able to attend the June 6th Board meeting as he will be in Washington on that date.

AMENDED MOTION: Commissioner Keefe moved to direct staff to proceed with in-house redistricting processes, for the Chairman to appoint a group of Commissioners to work with staff and to have a preliminary response back to the Board by June 20th

Motion died for lack of a second.

MOTION: Commissioner Council moved to request staff to look at options and present data by the first meeting in June so the Board can study the data and decide in which direction they wish to proceed on June 20th.

SECOND: Commissioner Faircloth

DISCUSSION: Commissioner Evans questioned what options Commissioner Council intended and it was clarified that the structure would remain the same and for in-house staff to look at equalizing the population within the districts. Commissioner Evans offered a friendly amendment to Commissioner Council's motion to look at the structure as well. No amendment was made by Commissioner Council. Commissioner Melvin stated he would like for all seven Commissioners to look at the numbers provided and then decide where changes are needed. After listening to the Board discussion, County Attorney Moorefield clarified his proposal would be to identify adjacent precincts to District 1 using population figures and demographics with the objective of reducing the number of split districts which would simplify the workload and shorten the process time.

VOTE: Voting in favor of the motion – Chairman Edge, Commissioners King, Faircloth, Council, Melvin and Keefe. Voting in opposition to the motion – Commissioner Evans.

5. Consideration of Approval of Resolution Consenting to Amendment of 2009 QSCB Documentation to Allow Stripping of Tax Credits.

BACKGROUND: Explanation of Proposed Resolution on 2009 QSCBs

Over the last few years, Congress has tried a number of new programs for local government finance structures. One of these has been the Qualified School Construction Bond Program wherein a specific volume of authorization for bonds is allocated to the various states and local governments therein. All of the proceeds of such bonds are to be spent for school construction purposes. The structure is of benefit to the localities as it provides for lower net interest costs for the borrowing than traditional tax-exempt bonds.

Cumberland County received authority for \$15,900,000 of such bonds in 2009 and \$14,805,000 in 2010 and issued such bonds through the Cumberland County Finance Corporation. The 2010 authorization (actually issued in January 2011) was a taxable interest payment series of bonds with the County receiving a subsidy on the interest back from the federal government. That structure was not available to the County when it issued the 2009 series and they were issued as bonds bearing

a very low interest rate with the holder also receiving a tax credit to be used to defer federal income tax. The legislation provided that the bonds could be “stripped” (that is, the ownership of the principal repayments and the tax credits could be separated and held by different owners). However, the Internal Revenue Service did not have detailed regulations in place when the County issued its 2009 QSCBs.

The County, the Corporation, the Local Government Commission and Wachovia Bank (now Wells Fargo) as the owner of the 2009 QSCBs agreed upon their issuance that the documentation could be amended later to allow for a stripping transaction after the regulations were issued. This promise was a part of the consideration Wachovia took into account in agreeing to the low interest rate on the bonds.

The IRS has acted and Wachovia now wishes to do the transaction. An amendment has been drafted and the County’s agreement and consent to its execution is requested. Wachovia is paying the fees of the reviewing attorneys for the County and the Corporation and the County’s financial obligations with respect to the 2009 QSCBs are not being increased in any respect.

Wells Fargo is the holder of the County’s 2009 QSCB Indenture. This financing was a Build America Bond transaction that contained a tax credit as a component of the yield. Wells Fargo wishes to strip the tax credit from the bond. This is an allowable transaction which will not impact the county’s position. Wells Fargo has employed Hunton & Williams to provide an opinion of counsel on the transaction and has also requested that the Cumberland County Finance Corporation and the County acknowledge the disclosure made upon the stripping transaction and enter into a continuing disclosure agreement for going forward. The county has required that the language in the supplement clearly state that the new offering is by Wells Fargo as the owner of the indenture and it is not by the County and that the County is not indemnifying anyone as to this transaction.

BOARD OF COMMISSIONERS
OF
COUNTY OF CUMBERLAND, NORTH CAROLINA

Excerpt of Minutes
of Meeting of
May 16, 2011

Present: Chairman _____ presiding, and Commissioners _____

Absent: _____

* * * * *

The following resolution was introduced and its title was read:

RESOLUTION CONSENTING TO AMENDMENT OF 2009 QSCB DOCUMENTATION TO ALLOW STRIPPING OF TAX CREDITS

WHEREAS, the Board of Commissioners (the "Board") of the County of Cumberland, North Carolina (the "County") entered into an Installment Financing Agreement dated as of December 1, 2009, (the "Agreement"), pursuant to NCGS Section 160A-20, for the issuance by the Cumberland County Finance Corporation (the "Corporation") of 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 1, 2009 (the "Indenture"), between the Corporation and U.S. Bank National Association, as Trustee (the "Trustee"), to finance (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, and E. E. Smith High 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 Certificates were sold to Wachovia Bank, National Association (the "Initial Purchaser"); and

WHEREAS, the Indenture provides for the stripping of the tax credits associated with the Certificates if the Indenture is amended and the Initial Purchaser has drafted such an amendment (the "Supplemental Indenture") and requested the County consent to its execution and delivery to permit the stripping and subsequent sale of component pieces of the Certificates and the rights thereto; and

WHEREAS, there have been presented to the Board forms of the following documents which the Initial Purchaser proposes to use for such purposes:

- a draft dated May 5, 2011, of the form of the Supplemental Indenture; and
- a draft dated May 6, 2011, of the form of an Offering Circular for stripped certificates; and

WHEREAS, the Board desires to consent to the Supplemental Indenture and to authorize other actions in connection therewith;

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

The Board hereby consents to the execution and delivery by the Corporation of the Supplemental Indenture in substantially the form provided with such changes as may be necessary or advisable in the opinion of County's bond counsel and any other documents or certificates that may be required in connection with the stripping and sale 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.

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: _____

* * * * *

I, _____, Clerk of the Board of Commissioners of Cumberland County, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and complete copy of so much of the proceedings of the Board of Commissioners for the County at a regular meeting held on May 16, 2011, as it relates in any way to the resolution hereinabove referenced and set forth, respectively, and that the proceedings are recorded in Minute Book ____ of the minutes of the Board. Pursuant to G.S. § 143-318.12, a current copy of a schedule of regular meetings of the Board of Commissioners for the County is on file in my office.

WITNESS my hand and the common seal of said County, this ____ day of May, 2011.

RECOMMENDATION / PROPOSED ACTION: Approve the Resolution consenting to the Amendment of 2009 QSCB Documentation to Allow Stripping of the Tax Credits and authorize the Chairman and staff to execute the documents necessary to complete the transaction.

County Manager Martin called on the county bond counsel for this request, William H. McBride of Hutton & Williams, to provide additional information. Mr. Williams advised that when the 2009 Qualified School Construction Bond was approved, the Internal Revenue Service did not have detailed regulations in place, but the IRS has now acted which allows for a stripping transaction. Mr. McBride stated the Local Government Commission (LGC) does not legally have to review the request for approval, but stated they would like to review it. Mr. McBride stressed the county is not being asked to change any commitment – the dollar sum total does not change. However, the LGC could require a financial disclosure on the county, but it would not cost the County nor would it be expected to be provided until probably September. In response to a question from Chairman Edge, Amy Cannon stated she concurs with the recommendation. Ms. Cannon stated the tax credits are being separated out from the principal payment resulting in two owners, but the sum total is the same. Commissioner Melvin re-confirmed the transaction would not cost the County anything.

MOTION: Commissioner Council moved to approve the resolution consenting to the amendment of 2009 QSCB documentation to allow stripping of the tax credits and authorize the Chairman and staff to execute the documents necessary to complete the transaction.

SECOND: Commissioner King

VOTE: UNANIMOUS

6. Consideration of Cumberland County Facilities Committee Report and Recommendations:

- A. Request from Cape Fear Regional Theatre (CFRT) to Use Historic Courthouse for Production of a Play.

BACKGROUND: At its May 5, 2011 meeting, the Facilities Committee voted to approve and forward to the Board of Commissioners the recommendation of the county attorney to grant the request of the CFRT to use the Historic Courthouse for the production of the same play that it had presented in the courthouse 50 years ago, subject to providing either an indemnity agreement or insurance sufficient to cover any liability to which the county may be exposed.

DISCUSSION: The board's adopted policy prohibits the use of county owned property for commercial or profit-making purposes. This use is for a commercial purpose; however; this specific use for the production of the same play that was presented in the facility 50 years ago emphasizes the historic, cultural and architectural significance of this courthouse and demonstrates why it has been designated the "Historic Courthouse." The last section in the board's adopted policy does provide an exception to accommodate public uses which traditionally have been associated with particular facilities.

RECOMMENDATION/PROPOSED ACTION: Grant the request subject to a written agreement satisfactory to the county attorney which provides indemnification or insurance coverage of any risk to which the county may be exposed and also requires adherence to all requirements of the county's policy other than the prohibition on commercial uses.

MOTION: Commissioner Keefe move to grant the request as recommended.

SECOND: Commissioner Council

VOTE: UNANIMOUS

7. Consideration of Cumberland County Policy Committee Report and Recommendations:

- A. Increase in Animal Shelter Fee Schedule.

B. Bladen County Bulk Water Interlocal Agreement for Water System

BACKGROUND: The County in response to water quality issues in the Southpoint Subdivision related to ground water contamination has begun to develop a plan for supplying potable water to the Subdivision and the surrounding area within practical distance to any distribution lines constructed to serve the project. Development of the plan has identified Bladen County Water District as the best source for the necessary water supply. The County has applied to the Public Water Supply Section of DENR for funding and one of the application requirements is the project have all contracts in place by May 31, 2011 so that the project is ready to proceed as of that date.

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN
BLADEN COUNTY WATER DISTRICT AND CUMBERLAND COUNTY FOR
BULK WATER SUPPLY FOR THE SOUTHERN PART OF THE COUNTY
INCLUDING SOUTHPOINT SUBDIVISION**

WHEREAS the governing body of Cumberland County has determined that it is necessary and in the public interest to contract with the Bladen County Water District to supply bulk water for use in any Cumberland County water distribution system which the County may develop in the southern part of the County including the Southpoint Subdivision.

WHEREAS, the governing body of the Bladen County Water Districts supports the County's efforts to supply potable water to its citizens in the southern part of the County and in particular in the Southpoint Subdivision; and has by resolution and execution has formalized the District's support and endorsement of the proposed Interlocal Agreement..

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF
THE COUNTY OF CUMBERLAND, THAT:**

The County of Cumberland shall in consideration of the mutual obligations set forth within the Interlocal Agreement attached hereto, the sufficiency and receipt of which is hereby acknowledged, and pursuant to N.C.G.S. § 160A-461, enters into an Interlocal Cooperation Agreement with the Bladen County Water District pursuant to the terms and conditions contained within the attached Interlocal Agreement for the supply of bulk water.

ADOPTED this the 16th day of May 2011 by the Board of Commissioners of Cumberland County, North Carolina.

RECOMMENDATION / PROPOSED ACTION: Board approve by the above resolution the interlocal agreement pursuant to NCGS 160A-461 with Bladen County Water District for bulk water supply to the southern part of Cumberland

County including Southpoint Subdivision and authorize the Chairman and Clerk to execute the necessary documents on behalf of the County.

MOTION: Commissioner Melvin moved to approve the request for 7.A. and 7.B.
SECOND: Commissioner Council
VOTE: UNANIMOUS

8. Nominations to Boards and Committees

A. ABC Board (2 Vacancies)

Commissioner Council nominated Gene Watts and Dr. John Griffin.

Commissioner Evans nominated Terri Thomas.

Commissioner Keefe nominated Johnson Chestnutt.

Commissioner Faircloth nominated David Mack, but withdrew his name after he learned that Mr. Mack requested withdrawal of his name.

B. Board of Adjustment (1 Vacancy)

Commissioner Council nominated Yvette Carson.

C. Cumberland County Criminal Justice Partnership Advisory Board (4 Vacancies)

Commissioner Council nominated Sharon T. Phillips, JDM (Probation Officer)
Major John McRainey (Sheriff or Designee)
Sharon Wright Hucks (Victim Services program Rep)
James Miller (Substance Abuse Service Rep)

D. Human Relations Commission (2 Vacancies)

Commissioner Edge nominated Sandra Mitchell and Muhammad A. Lodhi.

E. Department of Social Services Board (1 Vacancy)

Commissioner King nominated Commissioner Ed Melvin.

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

Commissioner Council nominated Breeden Blackwell.

G. Joint Senior Citizens Advisory Commission (1 Vacancy)

Commissioner Council nominated Wayne Raynor.

H. Jury Commission (1 Vacancy)

Commissioner King nominated Edgar F. Merritt.

I. Tourism Development Authority (1 Vacancy)

Commissioner Melvin nominated Dallas Mack Freeman.

9. Appointments to Boards and Committees

A. Human Relations Commission (1 Vacancy)

Nominee: Clabon Roddell Lowe

MOTION: Commissioner Faircloth moved to appoint Clabon Roddell Lowe.
SECOND: Commissioner Council
VOTE: UNANIMOUS

B. Workforce Development Board (2 Vacancies)

Nominees:

Private Sector Position: Dina Simcox (Reappointment)
Sheba McNeil

Community Based Organization: Carl J. Manning (Reappointment)

With two names being nominated for the Private Section Position, the Chairman called for the vote.
Voting for Dina Simcox – Chairman Edge, Commissioner Edge, Council and Keefe.
Voting for Sheba McNeil – Commissioners Evans, Faircloth and Melvin.

MOTION: Commissioner Faircloth moved to appoint Carl J. Manning as the Community Based Organization representative.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS

Chairman Edge recessed the Board of Commissioners' Meeting.

Chairman Edge convened the Norcross Water & Sewer District Governing Board Meeting.

Items of Business:

A. Approval of minutes for the May 17, 2010 regular meeting

MOTION: Commissioner King moved to approve the minutes as presented.
SECOND: Commissioner Council
VOTE: UNANIMOUS

B. Report of Collection of Delinquent Accounts

BACKGROUND: The sewer use ordinance and regulations for NORCRESS establish a monthly availability charge to all properties containing a dwelling or other building used for human occupancy, employment, recreation, or other purposes. This is also described as the debt service charge. Some property owners subject to this charge have never paid it. This is a major part of 16 accounts which are currently delinquent. This memo is being provided to the governing board in advance of the county's commencing legal action against the property owners with delinquent accounts. All property owners with delinquent accounts have been given multiple opportunities to bring their accounts current. This collection process is the measure of last resort.

MOTION: Commissioner King moved to accept the report.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS

C. Any Other Matters of Interest

No other matters were brought before the Board

Chairman Edge adjourned the Norcross Water & Sewer District Governing Board Meeting.

Chairman Edge reconvened the regular Board of Commissioners' Meeting.

10. Closed Session: Attorney-Client Matter(s) pursuant to NCGS 143-318.11(a)(3)

MOTION: Commissioner King moved to go into Closed Session.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS

MOTION: Commissioner King moved to go into Open Session.
SECOND: Commissioner Council
VOTE: UNANIMOUS

MOTION: Commissioner Evans moved to adjourn.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS

There being no further business, the meeting adjourned at 9:35 p.m.

Approved with/without revision:

Respectfully submitted,

Marie Colgan
Clerk to the Board