

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JUNE 18, 2012 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Jimmy Keefe, Vice Chairman
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Charles Evans
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager/Finance Officer
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Communication and Strategic Initiatives Manager
Tom Lloyd, Planning and Inspections Director
George Hatcher, Planning and Inspections
Jeffrey Thompson, County Engineer
Doug Peters, Fayetteville/Cumberland County Chamber of
Commerce President
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Marshall Faircloth called the meeting to order.

INVOCATION

Commissioner Council provided the invocation followed by the Pledge of Allegiance to the American flag led by Jaylen Blue, a third Grader at Cumberland Mills Elementary School.

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

James Martin, County Manager, read the public comment period policy. Chairman Faircloth opened the public comment period and the Clerk to the Board called the following speakers:

Sharman Tober – Ms. Tober stated thirteen dogs that belong to her and her son were taken away from her by Animal Control. Ms. Tober stated she wants the dogs back and wants to know where they are. Ms. Tober stated she will have to take legal action if she does not hear from the county soon.

Christopher Tober – Mr. Tober stated Jack was his therapy dog and he and his mother were staying at Operation Inasmuch when the dogs were taken away. Mr. Tober stated the dogs were released without their permission.

Travis Wofford – Mr. Wofford spoke in support of the TJ Robinson Life Center and stated he was rescued from being an at-risk youth. Mr. Wofford stated to deny funding to the TJ Robinson Life Center and what they could do to help the youth of Cumberland County was wrong.

Shaquonda Williams – Ms. Williams spoke in support of the TJ Robinson Life Center and stated she was not an at-risk youth but a lot of kids need the TJ Robinson Life Center to give them guidance.

Andrew Early – Mr. Early spoke in support of the TJ Robinson Life Center and stated it was disheartening that the county did not fund their efforts. Mr. Early stated he did not understand how the county could fund the detention center at \$15 million but not the TJ Robinson Life Center at \$1 million.

Recognition of 2011 Cumberland County Agricultural Hall of Fame Inductee: George Edmund Bullard Jr.

Chairman Faircloth recognized Edmund Bullard and stated he was an early leader in irrigated crop production, especially in the tobacco production field. One crowning accomplishment of Mr. Bullard's is that he achieved high tobacco yields on sandy soils. Contributing factors to his success were his intensive management of fertility, irrigation, labor, and curing.

Mr. Bullard was very involved in both the South River community and Center Baptist Church's baseball and basketball teams. He coached both the Little League division and the youth league division. He was the driving force behind the creation and construction of the South River Community ballpark which served the South River Community as well as adjacent communities prior to the establishment of the county park system.

Mr. Bullard served many years as a member of the ASCS/FSA county committee. A graduate of Central High School in 1952, Mr. Bullard attended North Carolina State University, obtaining a Bachelor's degree in Agriculture Education in 1956. Very active in his church, Mr. Bullard was ordained as a Deacon at Center Baptist Church and continues as an active member.

Recognition of 2011 Cumberland County Agricultural Hall of Fame Inductee: Ted Maxton Bunce, Sr. (Posthumous) Award to be Accepted by Maxton Bunce, Jr.

Recognition of 2011 Cumberland County Young Farmer of the Year: William John Gillis

Chairman Faircloth advised neither Maxton Bunce, Jr. nor William John Gillis were able to attend for the recognitions.

Recognition of Cumberland County Cares Award: Mable Murray, Cumberland County 4-H Volunteer

Commissioner Edge recognized Cumberland County 4-H Volunteer Mable Murray and stated she has been a Cumberland County 4-H Volunteer leader for seventeen years. During that time, she has led the Murray 4-H Club and has encouraged over fifty youths to participate. Ms. Murray serves as a role model to more than just the youths she works with in 4-H. Besides being a community volunteer, she also finds time to work with other volunteers in the county and the state through the North Carolina 4-H Achieving Continued Education Master Volunteer Program. She has earned the Emerald, the highest level of recognition within the program, and is now specializing in assisting with the 4-H Presentations Program. Ms. Murray was recently named winner of the North Carolina 4-H State Volunteer Award at the 2012 NC 4-H Volunteer Leaders Conference. It is because of her caring nature, her heart for children and her constant smile that the Cumberland County 4-H Program proudly nominated Ms. Murray for the Cumberland County Cares Award.

Commissioner Edge presented the Cumberland County Cares award to Ms. Murray. Ms. Murray shared how she became involved with 4-H and thanked the Board of Commissioners for their support of Cumberland County 4-H.

Recognition of Outgoing Board Members: Certificates of Appreciation to Members of the Criminal Justice Partnership Advisory Board:

Chairman Faircloth stated the Board of Commissioners would like to express its appreciation to members of the Cumberland County Criminal Justice Partnership Advisory Board for their service to Cumberland County.

Chairman Faircloth recognized Sue Horne for having served as the Community-Based Corrections Programs Representation and James Lawson for having served as the County Manager Designee. Chairman Faircloth stated he has also been a member of the Criminal Justice Partnership Advisory Board for the past several years and recognized the following members who were unable to be present:

Sharon T. Phillips
Honorable Gregory A. Weeks
Leesa Jensen
Edgar F. Merritt
Kristin Jones
Kraig Brown
Teresa Rogers
Ron McSwain

James Miller
Honorable Elizabeth Keever
Captain Charles Hunter
Major John McRaney
Billy R. West, Jr.
Diane Shelton
Beverly R. Hill
David Delaney

Chairman Faircloth stated the Cumberland County Criminal Justice Partnership Advisory Board was enacted by the General Assembly to accomplish the following goals:

- reduce recidivism,
- reduce the number of probation revocations,
- reduce alcoholism and other drug dependencies among offenders, and
- reduce the cost to the state and the counties of incarceration.

The Criminal Justice Partnership Advisory Board in Cumberland County was initially instrumental in the development and design of the Cumberland County Day Reporting Center; however, its focus has since changed. It meets on a quarterly basis to evaluate and monitor the progress of the Day Reporting Center. It also makes recommendations on how the program can be enhanced or improved.

On June 23, 2011, House Bill 642, the “Justice Reinvestment Act of 2011” was signed into law which brought about many changes to the criminal justice system, including the Criminal Justice Partnership Program (CJPP). Effective July 1, 2011, general statutes concerning the CJPP were abolished and the Treatment for Effective Community Supervision (TECS) Program was created in place of the CJPP. Services provided under the CJPP will be allowed to continue through June 30, 2012. As of that date, the Criminal Justice Partnership Advisory Board will cease to exist.

Chairman Faircloth called on Callie Gardner, Day Reporting Center, who explained the Day Reporting Center would submit a proposal for the TECS Program. Ms. Gardner thanked members of Criminal Justice Partnership Advisory Board for their service.

James Martin, County Manager, requested the removal of Item 3.I., MH 6431-2011, because the property had been remediated.

1. Approval of Agenda

MOTION: Commissioner King moved to approve the agenda with the removal of Item 3.I.
SECOND: Commissioner Edge
VOTE: UNANIMOUS (7-0)

2. Consent Agenda

- A. Approval of minutes for the May 31, 2012 Special Meeting for the FY2013 Budget Presentation, June 4, 2012 regular meeting, June 5, 2012 Special Meeting for Department Head Appeals, June 6, 2012 Special Meeting with Board of Education and June 7, 2012 Special Meeting for FY2013 Budget Public Hearing

B. Approval of Rejection of Bid for Electronic Medical Records for the Cumberland County Health Department

BACKGROUND:

The Cumberland County Department of Public Health only received one (1) bid from NetSmart for Electronic Health Records. In an effort to assure that we have the most competitive pricing, we have decided to go back to the market for bids.

RECOMMENDATION/PROPOSED ACTION:

Approval to reject bid from NetSmart due to lack of competitive bids.

C. Approval of Sole Source Purchase for Ice Floor Expansion Joints at the Cumberland County Crown Coliseum

BACKGROUND:

Below is a request from Cumberland County Crown Center for replacement of the expansion joint (sealant) around the ice floor located in the coliseum. The total cost for labor and material will be \$31,500.00 with freight running between \$600 and \$800.

This is a formal request to procure the replacement of the expansion joint (sealant) around the ice floor located in the coliseum by means of sole sourcing. The justification for this request is price competition for the repair is not available and needed repair is available from only one source. The contractor of choice to perform this project is Cimco as the floor is a Cimco product and Cimco performed the original installation. At the conclusion of staff's research of refrigeration contractors, it was founded that Cimco is the only refrigeration contractor that installs and repairs ice rink floors and possesses the knowledge of the floor and materials involved for this specific project. Any diversions from properly repairing and failure to utilize exact materials required could result in irreparable damage to the ice rink, with the only recourse being that of replacement at an estimated cost of \$1,000,000. Additionally, Cimco has the knowledge and expertise to identify and repair minor issues prior to those issues becoming severe enough to cause irreparable damage to the ice rink floor. Cimco will conduct this inspection simultaneously during the expansion joint replacement process, which will extend the life of the ice rink floor. Cimco will complete all work in accordance with the original manufacturer's specifications to maintain the integrity of the ice rink floor and will provide a one year warranty on the labor and materials. Recommendation is for approval of the sole source of repairs to the ice floor and the acceptance of the Cimco quote.

RECOMMENDATION/PROPOSED ACTION:

Approve sole source exception (GS 143-129(e)(6)) when standardization or compatibility is the overriding consideration and accept the Cimco quote.

D. Approval of Bid Award to Internetwork Engineering for the Expansion of Cisco Voice Over IP Telephone System for the Cumberland County Public Library

BACKGROUND:

A formal bid was held on Monday, May 29, 2012 for the expansion of the IP Telephony System.

RECOMMENDATION/PROPOSED ACTION:

Accept the bid provided by Internetwork Engineering.

- E. Approval of Alcoholic Beverage Control (ABC) Board Travel Policy

BACKGROUND:

According to correspondence from Eddie Maynor, Chairman of the Cumberland County ABC Board, the ABC Board is requesting that the Board of County Commissioners approve the ABC Board's adoption of Cumberland County's Travel Policy, CP-06, in accordance with House Bill 1717, Section 13.

RECOMMENDATION/PROPOSED ACTION:

Approve the ABC Board's request to adopt Cumberland County Travel Policy, CP-06, and direct the Clerk to the Board to send to the ABC Commission written confirmation of said action and a copy of Cumberland County's Travel Policy, CP-06.

- F. Approval of Amendment to the Engineering Services Contract for the Southpoint Water Project

BACKGROUND:

After meeting with the local NCDENR Public Water Supply section, it has come to the Public Utilities Department's attention that in order to operate the Southpoint Water Project there must be a Water System Management Plan on file and approved by NCDENR. The engineering firm of Koonce, Noble and Associates completed the design of the system and is providing construction management for the installation of the system. Koonce, Noble, and Associates has adequate knowledge of preparing such plans and has stated that they will prepare the Water System Management Plan, Operation and Management Plan and the Emergency Management Plan for the Southpoint Project for a total cost of \$2,450, which will be added to their existing contract for a total of \$57,450. There is enough money available in the budget line to increase the purchase order to cover the above mentioned increase to the engineer.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Board of Commissioners approve the increase to the purchase order in the amount of \$2,450. The proposed action by the Board is to follow the staff recommendation.

- G. Approval of Declaration of Surplus County-Owned Property and Authorization to Dispose of Armored Vehicle Used by the Cumberland County Sheriff's Office

BACKGROUND:

A Military Peacekeeper Armored Vehicle was obtained from the Law Enforcement Support Service in Garner, NC at no cost to the county. This vehicle was loaned to the

county for its use as long as the county needed it. Even though this vehicle was obtained at no cost to the county the vehicle must either be turned in to a Military Installation, Law Enforcement Support Services or transferred to another Law Enforcement Agency per the policy and agreement with the Law Enforcement Support Services. This vehicle was obtained on January 26, 2001, and had a value of \$65,070.00 at that time. This vehicle has become a mechanical nuisance. It is not cost effective to retain this vehicle. The actual model name is Truck Security Police Armored Response/Convoy, National Stock Number is 2310-01-074-7642, Manufactures Serial Number is 50336 and the Registration Number is 81C547.

RECOMMENDATION/PROPOSED ACTION:

There is no longer a need for this vehicle, therefore, Law Enforcement Support Services was asked to find an agency that needed a Peacekeeper. The Greenville, NC Police Department has shown an interest in the Peacekeeper and they want to take possession of it. Therefore the request is to approve the transfer of this vehicle to the Greenville, NC Police Department.

- H. Approval of the FY13 Home and Community Care Block Grant for Older Adults Agreement Between County of Cumberland and Mid-Carolina Area Agency on Aging and 2012-2013 County Funding Plan

BACKGROUND:

In 1991, the North Carolina General Assembly passed Senate Bill 165, Chapter 241, which requires the Division of Aging to administer a Home and Community Block Grant for Older Adults. In order to implement the 1991 legislation, each county designated a lead agency to work with appointed members on a planning committee to make funding recommendations to the Board of County Commissioners. The Commissioners designated Mid-Carolina Area Agency on Aging as the lead agency for planning and coordination of the County's Funding Plan for Older Adult Services. The funding plan is a means to provide coordination through community-based resources in the delivery of comprehensive agency services to older adults and their families.

RECOMMENDATION/PROPOSED ACTION:

Cumberland County Management and Ms. Glenda Dye, Aging Director – Area Agency on Aging, and the Home and Community Block Grant Committee recommends that the FY 2012-2013 funding plan for the Home and Community Block Grant for Older Adults and the FY13 Home and Community Block Grant for Older Adults Agreement be approved.

- I. Approval of Cumberland County Finance Committee Report and Recommendations:
 - 1) Approval of a Resolution Authorizing Reimbursement for Fayetteville Technical Community College Capital Financing

BACKGROUND:

The Finance Committee met on June 7, 2012 and received an update on the status of the Capital Financing for Fayetteville Technical Community College (FTCC). The capital improvements and renovations needed at FTCC are to completely replace the aging mechanical systems for Lafayette Hall (\$2,500,000) and to replace the roofs on the YMCA building, Neil Currie Building and the Library (\$1,000,000). Their request was for the County to pursue options available to finance these capital costs. FTCC would then use their normal capital allocation for the principal and interest payments. County Finance had explored alternatives for funding the needed improvements and believes that the most viable option is an installment financing plan. Because the improvements will “attach” to real property, the financing must be approved by the Local Government Commission (LGC). The costs of the Project amount are not expected to exceed \$3,600,000.

The County intends that the proceeds of the indebtedness be used to reimburse the County for expenditures with respect to the project made on or after the date that is no more than 60 days prior to the date of the attached resolution.

There are several steps necessary in pursuing this financing and the following schedule is recommended. The Board of Commissioners must first approve the attached reimbursement resolution at the June 18, 2012 Board meeting. The next steps would include a request for proposals for bank financing and a public hearing would be called at the August 6, 2012 Board Meeting. The actual Public Hearing on the financing will be scheduled for the August 20, 2012 Board of Commissioners meeting for final approval by the LGC in September.

RECOMMENDATION/PROPOSED ACTION:

Cumberland County Management requests approval of the attached resolution at the June 18, 2012 Board of Commissioners meeting to pursue tax exempt financing for capital improvements and renovations at FTCC, including completely replacing the aging mechanical systems for Lafayette Hall and replace the roofs on the YMCA building, Neil Currie Building and the Library.

**BOARD OF COMMISSIONERS
OF CUMBERLAND COUNTY**

Excerpt of Minutes
of Meeting on
June 18, 2012

Present: Chairman _____ presiding, and

Commissioners: _____

Absent: _____

* * * * *

The following resolution was discussed and its title was read:

**RESOLUTION OF OFFICIAL INTENT TO PURSUE
TAX EXEMPT FINANCING AND TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the Board of Commissioners of Cumberland County, North Carolina (the "County") intends to finance a portion of the cost of acquisition, construction and equipping of capital improvements and renovations to Fayetteville Technical Community College (the "Project") during the next several years;

WHEREAS, the County may advance its own funds to pay expenditures related to the Project, may borrow funds on a short term taxable or tax exempt basis in order to pay such expenditures or may enter into contracts obligating third parties to make certain expenditures relating to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt obligations or taxable debt, or both;

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

1. The County intends to utilize the proceeds of tax-exempt indebtedness, including but not limited to installment finance agreements and limited obligation bonds (collectively, the "Indebtedness") or to incur other debt, to pay the costs of the Project in an amount not currently expected to exceed \$3,600,000.

2. The County intends that the proceeds of the Indebtedness be used to reimburse the County for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this resolution. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Indebtedness or other debt.

3. The County intends that the adoption of this resolution confirms its "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

4. This resolution shall take effect immediately upon its passage.
Commissioner _____ moved the passage of the foregoing resolution, Commissioner _____ seconded the motion, and the resolution was passed by the following vote:

Ayes: _____

Nays: _____

Not Voting: _____

J. Approval of Cumberland County Policy Committee Report and Recommendations:

- 1) Consideration of Approval of Proposed Personnel Code Changes for Implementation of Classification and Pay Plan Recommendation

BACKGROUND:

At the May 11, 2012 Budget Planning Session, the Study Team responsible for conducting phase 1 of the Classification and Pay Study presented the results of their study, including the findings and the recommendations endorsed by Management and Human Resources. Subject to Board approval of recommended Pay Plan, changes to Personnel Code are proposed to support the Plan, and to better manage pay issues including pay equity and salary progression. The proposed changes are summarized below. At its June 7, 2012 meeting, the Policy Committee recommended approval of these amendments.

RECOMMENDATION/PROPOSED ACTION:

Consider whether to approve the proposed County Personnel Code provisions as recommended by the Policy Committee.

Cumberland County Code Proposed Revisions
Chapter 10 – PERSONNEL

ARTICLE I. IN GENERAL

Sec. 10-6. Responsibility of department heads.

(a) Department heads shall be responsible for bringing to the attention of the ~~personnel director~~ Human Resources Director any condition of these regulations which, in their opinion, is inconsistent with the efficient operation of the department or proper maintenance of employee morale. Appropriate recommendations will accompany any such reportings.

~~(b) Department heads shall report all personnel actions taken with their department to the personnel director as soon as such actions are taken. These actions shall be reported on form CCPD-2 for all agencies except those under competitive services. Those agencies under competitive services will submit the PD-100 HR form for personnel actions. These forms must be signed by the personnel director before any such action shall be valid and binding and the employee paid.~~

(b) Department heads, to include human services, shall report all personnel actions taken within their department to the Human Resources Director prior to implementation. These actions must have the Human Resources Director's approval prior to any action being taken by department heads.

(c) All anticipated vacancies shall be reported by the department head to the

~~personnel—Human Resources Ddepartment. The procedure for handling vacancies shall be as follows:~~

~~(1)Employees shall be required to submit in writing their intention of terminating employment two weeks in advance of the actual separation date.~~

~~(2)The department head shall notify the personnel department immediately upon receipt of such written intention of employment termination.~~

~~(3)The personnel director will meet with the terminating employee for the purpose of an exit interview.~~

~~(4)The department head and the personnel director shall together perform a job audit of the vacancy in order to recruit and select a suitable employee. (Comp. Ords., § 9 1.4)~~

Sec. 10-7. Responsibility of ~~personnel director~~ Human Resources Director.

~~The personnel director shall be responsible for preparation and maintenance of the personnel regulations, including also the position classification plan and perform such other related duties as the County Manager may direct. All matters dealing with personnel shall be routed through the personnel director, who shall maintain a complete system of personnel files and records. The director shall also develop and implement an affirmative action program providing equal employment opportunity for all applicants in the county.~~

The Human Resources Director shall be responsible for preparation and maintenance of the personnel regulations and perform such related duties as the County Manager may direct. All matters dealing with personnel actions which may result in documentation being placed in an employee's personnel file shall be discussed and approved by the Human Resources Director. The Human Resources Director shall maintain a complete system of personnel files and records. The Human Resources Director shall audit the personnel functions and records of all personnel functions throughout the county and report any finding to the County Manager and Board of Commissions annually. The Human Resources Director shall also develop, implement, and maintain talent acquisition, talent management, equal employment, and discipline and grievance policies and procedures for the county.

ARTICLE II. POSITION CLASSIFICATION PLAN*

Sec. 10-26. Coverage of the classification plan.

~~(a) A position classification plan shall be maintained for all permanent positions and shall be based on the reviewing of duties and functions of the jobs, giving consideration to the relative strength of related positions, difficulty, responsibility, conditions of the work environment, and other factors relative to job responsibilities.~~

~~(b) Job classification is the reviewing of the duties and functions of the job and, based on duties and responsibilities, a title and grade may be assigned. Job reclassification may result in:~~

~~(1) Allocation of position, if it does not exist.~~

~~(2) Lateral transfer of existing position requiring title and/or grade change at the same salary.~~

~~(3) Reallocation of existing position to a higher or lower classification.~~

~~(d) Comprehensive salary surveys or studies shall be conducted to gather data on rates being paid for comparable work in determining level of compensation assigned to positions within the county's financial ability.~~

The county shall maintain a current position classification plan that ensures the accuracy of position duties and responsibilities and consolidates similar job functions into defined classifications. The County Manager or designee shall determine the duties of each position and shall promulgate procedures to establish, revise and maintain the classification plan to ensure it reflects the duties performed by each employee in the classification system. The County Manager or designee shall make amendments to the classification plan which reflects new types, areas or level of work. The Board of Commissioners shall be notified of all such amendments at its next meeting following the date of the amendment.

Comprehensive salary surveys or studies shall be conducted to gather data on rates of pay for comparable work to determine the level of compensation assigned to positions within the county's financial ability.

~~Sec. 10-28. Administration of Classification Plan Authority of County Manager; responsibility of department directors.~~

~~(a) The county manager shall be responsible for the administration and maintenance of the position classification plan and shall have authority to allocate new classifications and reallocate existing classifications within the salary plan for all existing county positions. Positions governed by state personnel are exempt from this policy.~~

~~(b) Department directors shall be responsible for making reclassification requests to the personnel director when significant changes have occurred in position duties and responsibilities.~~

The County Manager or designee shall be responsible for the administration and maintenance of the position classification plan and shall have authority to establish new classifications and reallocate existing positions to the appropriate classifications within the classification plan for all county positions. Positions governed by the State Personnel Act must also be submitted to the Human Resources Director prior to any action regarding the

establishment of new classifications and the reallocation of existing positions.

~~Sec. 10-29. Same Changes in existing positions.~~

~~When the county manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, he shall:~~

- ~~(1) Direct that the existing class specification be revised,~~
- ~~(2) Reallocate the position to the appropriate class within the existing classification plan, or~~
- ~~(3) Recommend that the board of county commissioners amend the position classification plan to establish a new class to which the position may be allocated. (Comp. Ords., § 9-2.2)~~

~~Sec. 10-30. Same-New positions.~~

~~New positions shall be established by the board of county commissioners Board of Commissioners based on the recommendations of the County Manager. who shall either:~~

- ~~(1) Allocate the new position to the appropriate class within the existing classification plan, or~~
- ~~(2) Ask the board to amend the position classification plan to establish a new class to which the new position may be allocated. (Comp. Ords., § 9-2.2)~~

ARTICLE III. SALARY PLAN*

~~Sec. 10-46. Coverage.~~

~~The schedule of salary ranges and assignment of classes to salary ranges, attached to the ordinance from which this section is derived, shall be the salary plan of the county. The salary plan shall include all permanent classes of positions included in the classification plan. (Comp. Ords., § 9-3.1)~~

A salary plan shall be established by the Board of Commissioners and shall be maintained on a current basis. The County Manager or designee shall be responsible for the administration and maintenance of the salary plan. The plan will include salary ranges commensurate with the responsibilities and difficulty of the work, and will take into account the prevailing compensation for comparable positions in the other agencies of government and other relevant factors. Also, it will provide for special compensation programs which enhance the county's competitive position for the purpose of talent acquisition, retention, and productivity. It will provide for the salary advancement of employees based upon changes in job responsibilities, equity, prevailing market conditions, and performance depending upon the availability of funds.

All salary ranges will have a minimum, midpoint and maximum rate of pay. Employees shall be paid in compliance with all federal and state laws.

~~Sec. 10-47. Maintenance.~~

~~The county manager shall be responsible for the administration and maintenance of the salary plan. Each year, prior to the preparation of the annual budget, the personnel director shall secure information concerning the general level of salaries paid and fringe benefits provided comparable municipal, county and state employees, and any change in the cost of living in the area during the fiscal year. The personnel director shall conduct continuing studies of the relationships between classes in order to reduce or eliminate inequities between classes of positions. Based on the studies and recommendations of the personnel director and the general financial condition of the county, the county manager shall recommend to the board of county commissioners such increases, reductions or amendments of the salary plan as he deems necessary to maintain the fairness and adequacy of the salary plan.~~

~~(Comp. Ords., § 9-3,2)~~

~~State law reference Responsibilities of county manager relative to pay plan, G.S. § 153A-92(e).~~

~~Sec. 10-48. Employee Compensation.~~

~~Each new employee shall be appointed at the minimum salary which has been established for the classification in which he is employed except:~~

~~(1)If the employee does not meet the minimum requirements of the position, and qualified applicants for the position are not available, the county manager may designate the employee as a trainee to be appointed at a salary below the minimum;~~

~~(2)When the county manager shall determine that there has been a demonstrated inability to recruit at the minimum salary, or if an applicant possesses exceptional qualifications or prior experience, the county manager may authorize the employment of the applicant at a salary level up to and including the maximum of the salary range provided for that position classification, subject to the availability of appropriated salary and benefit funds;~~

~~*State law reference Board of commissioners to fix or approve pay schedules, expense allowances and other compensation of county employees, G.S. § 153A-92(a).~~

~~(3)When the county manager shall identify, critical staffing levels of a particular work unit within a department, or when unusual or peak work demands cannot be met, the county manager may authorize the emergency assignment of employees normally assigned to another work unit in that department to temporarily [staff] the critically staffed work unit. These employees must be permanently assigned to the same or similar job classification as the position for which they will be temporarily performing duties. The county manager shall determine the rate of supplemental pay for work performed during the emergency assignment, based upon the critical~~

~~nature of the work to be performed and the limited resources available to perform the work;~~

~~(4)When the county manager shall identify a developing trend indicating unusual or persistent difficulty in turnover and/or retention of sufficient staffing in a particular job classification or work unit or when the county manager shall identify a specific concern regarding the retention of a critical position, the county manager may authorize a salary increase up to and including the maximum of the salary range provided for the affected position(s) subject to the availability of appropriated salary and benefit funds. Or, the county manager may authorize a separate supplemental payment to employees in the applicable positions. The annual amount of these payments shall not exceed more than ten percent of the midpoint salary of the position classification. Employees must meet performance expectations to be eligible for salary increases or supplemental payments. Supplemental payments shall terminate when the county manager shall determine and notify in writing that the turnover and/or retention trend justifying the salary increases or supplemental payments has terminated. When determining appropriate salary or supplemental payment amounts, the county manager shall take into consideration relevant factors including salaries paid in comparable and competitive job markets, and liability impact for failure to meet state staffing mandates.~~

~~(Comp. Ords., § 9 3.5; Ord. of 5 17 93; Ord. of 2 7 94; Res. of 4 3 2000; Amend. of 12 1 2003)~~

The County Manager or designee shall establish policies and procedures governing compensation of employees within the approved classification and pay plan as adopted by the Board of Commissioners. This includes new hires, reinstatements, reclassifications, promotions, demotions or transfers and in-range salary adjustments. The County Manager or designee shall establish these policies and procedures not inconsistent with state, federal and local laws governing compensation and employment. The Board of Commissioners must adopt any amendments to the classification and pay plan or benefits before the change can become effective.

Each new employee shall be compensated at a rate of pay within the assigned salary range. The County Manager or designee is responsible for ensuring salary inequities are not created with the rates of pay for existing employees.

To the extent that longevity, career development, and/or law enforcement step plan are funded in each fiscal year's budget, the County Manager or designee shall maintain procedures for awarding such payment(s) to eligible employees. Employees who are hired or re-employed on or after 7-1-2012 will not be eligible for longevity pay and/or the law enforcement career development payment.

~~Sec. 10-49. Salary of trainee.~~

~~A new employee who does not meet all of the established qualifications for a position may be appointed, with the approval of the county manager, at a training salary no more than two steps below the minimum salary established for the position. The employee shall continue to receive a reduced salary during the probationary period until the appointing department head shall determine that the trainee is qualified to assume the responsibilities of the position, or until the end of the probationary period when the employee is either discharged or moved to a listed rate in the salary range established for the position. The probationary period shall not exceed six months.~~

~~(Comp. Ords., § 9-3.6)~~

~~Sec. 10-50. Payment at a listed rate.~~

~~All employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classifications except employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan.~~

~~(Comp. Ords., § 9-3.4)~~

~~Sec. 10-51. Salary of part-time employee.~~

~~The pay plan established by this chapter is for full time service. An employee appointed for less than full time service shall be paid at an hourly rate or at a part-time/monthly salary if one is established for the position in question, whichever is applicable.~~

~~(Comp. Ords., § 9-3.12)~~

~~Sec. 10-52. Salary of promoted employee.~~

~~An employee promoted to a position in a grade having a higher salary range shall receive a one step salary increase or an increase to the minimum step of the new grade, whichever is higher.~~

~~(Comp. Ords., § 9-3.9; Ord. of 7-1-85)~~

~~Sec. 10-53. Salary of demoted employee.~~

~~A demoted employee shall be reinstated to his former position or similar position at his former grade and step, provided a vacancy exists and if qualified. (Comp. Ords., § 9-3.11; Ord. of 7-1-85; Ord. of 8-1-88)~~

~~Sec. 10-54. Salary of reclassified employee.~~

~~An employee whose position is reclassified to a class having a higher pay range shall receive a one step salary increase or an increase to the minimum step of the new salary range, whichever is higher. An employee whose position is reclassified to a class having a lower pay range shall not receive a reduction in~~

~~salary as a result of the reclassification.
(Comp. Ords., § 9-3.8)~~

~~Sec. 10-55. Salary of transferred employee.~~

~~The salary of an employee transferring to a position of the same grade shall not be affected by the transfer. The salary of an employee transferring to a lower position shall be reduced to the grade and minimum step of the lower position, subject to the provisions of section 10-48(2). (Comp. Ords., § 9-3.10; Ord. of 7-1-85)~~

~~Sec. 10-56. Earned salary increments.~~

~~(a) Salary increases above the minimum established for each class of positions shall be granted only in recognition of superior or improved performance. The board of county commissioners shall each year provide funds for earned salary increments. Insofar as practical, each department shall receive a share of the salary increment funds based upon salary levels within salary ranges in the department.~~

~~(b) A salary increment given to any employee shall consist of no less than one full step in the salary range established for this class. Salary increments shall be effective upon the recommendation of the supervising department head and approved by the county manager. (Comp. Ords., § 9-3.7)~~

~~Sec. 10-57. Travel allowances. (Move to Finance)~~

~~Allowances for travel, meals, and room rates for employees conducting official business shall be paid at the rate established by the board of county commissioners. Tips, not exceeding 15 percent of the meal cost, may be reimbursed.~~

~~(Ord. of 8-20-84; Ord. of 2-12-86)~~

~~Editor's note-An ordinance of Aug. 20, 1984, amended § 10-57 to read as herein set forth. Prior to such amendment, § 10-57 pertained to an automobile allowance and derived from Comp. Ords. § 9-3.15.~~

~~Sec. 10-59. Pay periods. (Move to Finance)~~

~~All employees shall be paid according to the pay schedule approved by the county manager. (Comp. Ords., § 9-3.13; Ord. of 8-20-84)~~

~~Sec. 10-62. Transition to New Salary Plan.~~

~~The following principles shall govern the transition to a new salary plan:~~

~~(1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.~~

~~(2) All employees, receiving salary at a rate less than the minimum rate established for their respective grade, shall have their salaries raised to ~~that~~ the minimum rate of the new grade. (Comp. Ords., § 9-3.3; Ord. of 7-1-85)~~

~~Sec. 10-63. Merit awards.~~

~~A program of merit increases shall be developed whereby all employees are eligible for consideration for merit salary increases based on meritorious work performance subject to board of county commissioners' appropriation of funds.~~

~~(1)Eligibility. All employees having permanent status shall be eligible for consideration for merit salary increases.~~

~~(2)Salary plan. An employee's salary cannot be raised by merit increases to exceed the maximum salary rate of the job classification assigned.~~

~~(3)Performance evaluation. Employees given consideration for meritorious increases shall, at a minimum, be evaluated on meritorious work performance based on quality, quantity, knowledge of work as measured by results, relationships with others, initiative and application of time, and amount of guidance required.~~

~~(Ord. of 8-20-84)~~

~~Sec. 10-64. Longevity pay.~~

~~Longevity pay shall be granted to all permanent and probationary employees working 30 or more hours per week.~~

~~(1)Completion of service. Employees with three or more years of completed consecutive service by November 30 are eligible for longevity pay.~~

~~(2)Payment for longevity. The amount of longevity payment shall be based on employee's current annual salary and paid on the first pay day in the month of December. This payment shall not be made a part of the employee's base salary. Employees that separate prior to the processing of the longevity payment forfeit their entitlement.~~

~~(3)Completed consecutive service. Employees are eligible for longevity pay under the following plan:~~

<i>Completed Consecutive Service</i>	<i>Percentage of Annual Salary</i>
3 years	0.75
5 years	1.00
7 years	1.25
10 years	1.50
15 years	2.25
20 years	3.25
25 years	4.50

~~(Ord. [of] 8-20-84; Ord. of 10-2-89; Ord. of 8-26-97;~~

~~Amend. of 11-5-2001) Secs. 10-66-10-75. Reserved.~~

- K. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure: 1.51 Acs Alice Dixon Land; 4007 Dolittle Road,

PIN: 9494-45-8818, Rockfish Township

BACKGROUND:

On or about August 6, 2011, 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 \$5,255.41. Mark and Carrie-Ann Michel were the last and highest bidders offering to purchase the County's interest in the property for \$7,694.46 and has deposited \$769.45 in the Finance Office. The tax value of the property is \$23,438.00. 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 Michel's bid. The property has been advertised and has received several bids; however, Mark and Carrie-Ann Michel were the final and highest bidders. The bid period is now closed.

RECOMMENDATION AND PROPOSED ACTION:

That the Board of Commissioners consider whether to accept the offer of Mark and Carrie-Ann Michel to purchase the above property for the sum of \$7,694.46, plus advertising and recording costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- L. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure: Lot 5 Handy Fisher Est., Located Off Tabor Church Road, PIN: 0460-36-0178, Cedar Creek Township

BACKGROUND:

On or about June 23, 2009, 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 \$4,985.37. Charles Cogdell IV has offered to purchase the County's interest in the property for \$4,985.67 and has deposited \$498.54 in the Finance Office. The tax value of the property is \$15,777.00. 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. Cogdell's bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

RECOMMENDATION/PROPOSED ACTION:

That the Board of Commissioners consider whether to accept the offer of Charles Cogdell IV to purchase the above property for the sum of \$4,985.37, plus advertising and recording costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- M. Budget Revisions:

- (1) Eastover Sanitary District/ESD Water Project Phase II

Revision in the amount of \$108,000 to reallocate budgeted expenditures and transfer funds to Eastover Sanitary District General Fund to pay for the second 100,000 gallons per day capacity allocation in the Eastover Approach Main. (B12-347 and B347A) Funding Source – Reallocation of Budgeted Expenditures

(2) Injured Animal Stabilization Fund

Revision in the amount of \$4,000 to budget actual revenues earned through donations in FY2012. (B12-364) Funding Source – Donations

(3) Soil and Water Conservation District

Revision in the amount of \$2,196 to budget actual revenues earned through fundraiser activities in FY2012. (B12-362) Funding Source – Fundraisers

(4) Mental Health

Child and Youth Contracts - Revision in the amount of \$750,000 to budget additional Medicaid pass thru billing for remainder of FY12. (B12-360) Funding Source – Fees

(5) Animal Control

Revision in the amount of \$10,285 to recognize grant received from Pet Smart Charities to host an adoption clinic. (B12-359) Funding Source – Grant

(6) Health

a. Dental Clinic - Revision in the amount of \$2,000 to recognize additional fees earned during FY2012. (B12-355) Funding Source – Fees

b. Jail Health – Revision in the amount of \$25,000 to appropriate fund balance to cover overtime pay and contracted services for the remainder of FY2012. (B12-358) Funding Source – Fund Balance

- c. Employee Pharmacy – Revision in the amount of \$180,898 to appropriate fund balance to create an initial inventory of medications, supplies and equipment so the Pharmacy can be operational on July 1, 2012. (B12-365) Funding Source – Group Insurance Fund Balance
- d. Employee Clinic – Revision in the amount of \$11,656 to appropriate fund balance and to reallocate expenditures to purchase equipment and so the Clinic can be operational on July 1, 2012. (B12-366) Funding Source – Group Insurance Fund Balance and Reallocation of Budget Expenditures

(7) Recreation and Parks

Revision in the amount of \$200,000 to recognize additional revenue anticipated to earn for the remainder of FY2012. (B12-370) Funding Source – Recreation Tax

MOTION: Commissioner King moved to approve consent Items 2.A. – 2.M.(7).
 SECOND: Commissioner Edge
 VOTE: UNANIMOUS (7-0)

3. Public Hearings

Uncontested Rezoning Case

Mr. Martin explained the Board of Commissioners’ procedures for public hearings.

- A) Case P12-31: Rezoning of 7.06+/- acres from A1 Agricultural to O&I(P) Planned Office and Institutional, or to a more restrictive zoning district, located at 2736 Cedar Creek Road, submitted by Cumberland County (owner) and Fayetteville-Cumberland County Chamber of Commerce.

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the May 15, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve O&I(P) Planned Commercial District. The motion passed with a unanimous vote.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Edge moved to approve O&I(P) Planned Commercial District in Case P12-31.
SECOND: Commissioner King
VOTE: UNANIMOUS (7-0)

Uncontested Conditional Zoning Case

B) Case P12-16: Rezoning of 1.00+/- acre from A1 Agricultural and A1/CU Agricultural/ Conditional Use Overlay for a restaurant and catering business to A1 Agricultural or to a more restrictive zoning district, located at 10785 Dunn Road, submitted by David and Susan Wall (owners).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the May 15, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve A1 Agricultural/CZ Conditional Zoning for assemblies, outdoor recreation (for profit) and religious worship but denial of the bed and breakfast use. The motion passed with a unanimous vote.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to follow the recommendation of the Cumberland County Joint Planning Board in Case P12-16.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

Contested Rezoning Case

C) Case P12-15: Rezoning of 1.05+/- acres from R10 Residential to C2(P) Planned Service and Retail, or to a more restrictive zoning district, located at the southwest quadrant of SR 1003 (Camden Road) and SR 1113 (Waldos Beach Road), submitted by Ruth Mason Curl (owner).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the May 15, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements agreeing that the request is not reasonable

and will not be harmony with the surrounding area and that the request for C2(P) be denied. The motion passed unanimously.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd stated this parcel existed prior to the development of Camden Estates and is not part of the development. Mr. Lloyd stated a request was made in 2010 for rezoning to C(P) and it was denied by both the Cumberland County Joint Planning Board and the Board of Commissioners. Mr. Lloyd stated the Cumberland County Joint Planning Board unanimously voted to deny this particular request for the following reasons:

1. The district requested is inconsistent with the location criteria for “light commercial” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan as it would not serve as a transition between heavy commercial, office and institutional or residential development;
2. The request, if approved, would be “spot zoning” initiating the encroachment of commercial into a residential area without a legitimate public interest and would benefit one owner at the expense of the community; and
3. The request is not reasonable as it is not in character with immediate surrounding land uses.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board called the following speakers:

Mark Candler – Mr. Candler appeared in favor and stated he was the realtor for the property owner. Mr. Candler stated C2(P) is being sought for retail or convenience purposes or a combination thereof because the corner property is suited for these uses. Mr. Candler referenced the northern part of the map and stated those areas were also zoned R10 and A1 prior to the rezoning for the Food Lion, a CVS drug store and Harris Teeter. Mr. Candler stated there are no interested parties at this time and the rezoning is being sought for retail space. Mr. Candler stated those in opposition to the rezoning are in fear of leaking fuel tanks.

Richard Hogg – Mr. Hogg appeared in opposition and stated he lived in Camden Woods. Mr. Hogg distributed a protest petition and stated Policy 8.8 of the Land Use Policies Plan of the 2030 Growth Vision Plan provides for protection of encroachment of existing neighborhoods. Mr. Hogg stated the rezoning request will initiate encroachment into Camden Estates. Mr. Hogg stated Policy 9.2 also states lands attached to a major intersection cannot be developed for that use. Mr. Hogg stated there is no traffic control at the intersection and rezoning the property commercial would pose a risk.

Mr. Hogg stated he hoped the Board of Commissioners would hold to the decision it made two years ago and not rezone the property commercial.

There being no further speakers, Chairman Faircloth closed the public hearing.

MOTION: Commissioner Keefe moved that the request for C2(P) rezoning in Case P12-15 be denied.

SECOND: Commissioner Edge

DISCUSSION: Commissioner King asked whether there was a traffic light across from the property. Mr. Lloyd stated there was no traffic light.

VOTE: UNANIMOUS (7-0)

Contested Conditional Zoning Case

D) Case P12-26: Rezoning of 1.75+/- acres from C1(P) Planned Local Business and A1 Agricultural to C(P) Planned Commercial/ CZ Conditional Zoning District for a convenience store, restaurant and for profit indoor recreation / amusement, or to a more restrictive zoning district, located at 3634 Chicken Foot Road, submitted by Dharmesh Patel on behalf of Grays Creek Groceries, LLC. (owner).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and agreeing that the request is not reasonable and will not be harmony with the surrounding area and that the request for C(P)/CZ for a convenience store, restaurant, and for indoor recreation be denied. The motion passed unanimously.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd stated the request is for indoor recreation for internet sweepstakes; the use of a convenience store is already a legitimate legal use. Mr. Lloyd stated Cumberland County Joint Planning Board voted to deny the request for the following reasons:

1. The request is not consistent with the location criteria for heavy commercial as listed in the Land Use Policies of the 2030 Growth Vision Plan, specifically, public water and sewer are not available in this area.
2. The request is not reasonable because the proposed additional use of “for profit indoor recreation” can be used to permit internet café/video gaming which the Codes Committee is currently proposing an amendment to regulate; and
3. Consideration of this request for this location is arbitrary and would not serve a viable public purpose – the non-residential structure on the subject property is currently an existing convenience store and restaurant that are permitted uses in the C1(P) zoning district.

Mr. Lloyd stated the Codes Committee made a recommendation to regulate internet sweepstakes which will go to the Joint Planning Board on July 19, 2012 with the anticipation that it will be adopted. Mr. Lloyd stated one of the recommendations would be a separation between these facilities of 2,500 feet from each other. Mr. Lloyd stated there is an internet sweepstakes facility about 1,500 feet away from the subject property and this would not be close to the recommended separation. Mr. Lloyd stated the Joint Planning Board felt it would be best to revisit internet sweepstakes after the Board of Commissioners August 20, 2012 meeting so the Board can decide how they should be regulated. Mr. Lloyd stated there is currently nothing operating illegally and a rezoning is not needed for the current activity to exist because the only issue is the indoor recreation for profit or internet sweepstakes.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board called the following speakers:

Danny Patel – Mr. Patel appeared in favor and stated he was the owner of the business and the only reason he was seeking a rezoning was because of his six sweepstakes machines. Mr. Patel stated the store across the street from him had thirty-five sweepstakes machines that are approved. Mr. Patel stated he had no plans to add anymore sweepstakes machines and was merely attempting to retain what he already had. Mr. Patel stated he operates a convenience store with a small grill and business is slow. Mr. Patel stated he is trying to keep the business going.

Steve Canady – Mr. Canady appeared in favor and stated he lives in the Grays Creek community and the convenience store serves as a meeting or go-to-work place every morning. Mr. Canady stated there have been no problems and he and his brother occasionally play the sweepstakes machines.

Dick Davis – Mr. Davis appeared in favor and stated he lives a mile from the convenience store, and twelve to fifteen men gather there each morning for what he calls the “Liars Club”. Mr. Davis stated Mr. Patel runs a nice clean business. Mr. Davis urged the Board of Commissioner to help Mr. Patel.

There being no further speakers, Chairman Faircloth closed the public hearing.

Mr. Lloyd responded to questions and stated the intent will be to classify operations having two or more machines as an internet sweepstakes facility. Mr. Lloyd stated a lot of entities such as hardware and feed stores have put in sweepstakes machines under the guise of their current operation and this then raises the question whether the customers

are there to play games or for the retail purpose of the store. Mr. Lloyd stated the regulated distance between the facilities also needs to be determined as well as the distance from schools, churches and other uses the facilities may impact and that 2,500 feet of separation had been proposed.

Commissioner King asked whether supply and demand would take care of these businesses as opposed to government controlling them. Mr. Lloyd stated supply and demand has not controlled them thus far, and because sweepstakes machines are new, they have been classified as “indoor recreation for profit” and have to be rezoned to C(P). Mr. Lloyd stated this is why Mr. Patel is requesting the rezoning because he can not put in the sweepstakes machines as currently zoned.

Commissioner Council asked whether Mr. Patel, even though he has operated the machines for quite some time, would have to move them out. Mr. Lloyd explained it was currently a violation because the machines have been operated without a permit for indoor recreation for profit.

Commissioner Evans asked if the case could be tabled until regulations are put in place. Mr. Lloyd stated the Board of Commissioners could set a date in August or September to hear the case again.

Commissioner Keefe stated the City of Fayetteville taxes these machines and there is no tax on these machines in the county. Commissioner Keefe stated when businesses realize they can locate just outside the City of Fayetteville, the floodgates will open unless it is taken care of immediately by the county. Commissioner Keefe stated tabling the case has a lot of merit but he hopes the Joint Planning Board is looking at some type of usage fee to protect the county from an onslaught of sweepstakes machines. Mr. Lloyd stated a fee was not included because it could not be implemented by planning staff; planning staff would have to work with the county attorney’s office.

Chairman Faircloth asked about the rationale behind 2,500 feet separation versus 1,000 feet. Mr. Lloyd stated 2,500 feet has been used as a standard separation number over the years and other ordinances have also been used as a model. Chairman Faircloth asked whether this type of businesses has been considered a nuisance. Mr. Lloyd stated most of the opposition received by the Joint Planning Board has been related to moral issues that sweepstakes machines may lead people to gamble. Mr. Lloyd stated in two cases there has been an outcry from surrounding neighborhoods regarding elements that may hang around these businesses.

MOTION: Commissioner Evans moved to table Case P12-26 under after the Joint Planning Board meeting when a recommendation comes to the Board of Commissioners.

SECOND: Commissioner Council

DISCUSSION: Commissioner Keefe asked the impact tabling the case would have on Mr. Patel. Mr. Lloyd stated as a violator, Mr. Patel is working towards becoming legal so he can still operate his business and will not be fined.

VOTE: PASSED (5-2) (Commissioners King, Evans, Faircloth, Council, and Melvin voted in favor; Commissioners Keefe and Edge voted in opposition)

Commissioner Council stated she shared the concerns expressed by Commissioners Keefe and Edge, and asked that suggested fees be made available when the case comes back to the Board. Mr. Moorefield stated the Board could consider fees outside the recommendation of the Joint Planning Board. Mr. Moorefield advised the statutes that apply to cities and counties for the regulation of these businesses are different, and at present, the county does not have the same leeway cities have with respect to imposing fees on these businesses. Mr. Moorefield stated it appears pending legislation will put the city and county on the same footing which will address the concern as expressed by Commissioner Keefe. Mr. Moorefield stated the issue should be resolved by the time the case comes back to the Board. Mr. Moorefield stated the taxation issue could be calendared for the August 2, 2012 meeting of the Policy Committee. Consensus was for the case to be brought back to the September 17, 2012 meeting of the Board of Commissioners.

Zoning Ordinance Text Amendment

- E) Case P12-32: Revision and amendment to the Cumberland County Zoning Ordinance, creating standards for riparian buffers by amending Article II Interpretations, Calculations, and Definitions, Section 203. Definitions of Specific Terms and Words; amending Article IX Individual Uses, Section 901. Development Standards for Individual Uses, sub-section D; amending Article XI Lot and Yard Regulations, Section 1102. Yard Regulations, sub-section G. Buffer Requirements and sub-section H. Reserved for future use; and updating the table of contents as appropriate.

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the May 15, 2012 meeting recommended adoption and approval of the text amendment as submitted and recommended by the Land Use Codes committee. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd provided a back brief leading up to the text amendment and stated the proposal is for a two-tiered buffer which is consistent with the minimum standard recommended by the N.C. Department of Environment and Natural Resources (DENR) for certain river basins in North Carolina, specifically the Neuse and Tar-Pamlico. Mr. Lloyd explained Zone One is proposed to be thirty feet in width and in this zone, the existing vegetation can not be disturbed. Mr. Lloyd explained Zone Two is proposed to be twenty feet in width where vegetation can be cleared, but the area must remain grassed. Mr. Lloyd pointed out that this can be used as a common area thereby not affecting the density of a development. Mr. Lloyd stated this would essentially provide a fifty foot riparian buffer and DENR would be able to help with a fifty foot riparian buffer as part of their erosion control and

sedimentation plans. Mr. Lloyd stated the county needs DENR's help in enforcing standards for riparian buffers because the county does not have the manpower to enforce buffer regulations and requirements. Mr. Lloyd stated text amendment proposes to exempt pre-existing lots of two acres or less in size; new subdivisions fronting major streams would be allowed one access. Mr. Lloyd stated despite what the Board may hear during the public hearing, the Joint Planning Board proposed fifty feet buffer based on research reports from N.C. State University and DENR's having indicated fifty feet was sufficient. Mr. Lloyd stated the fifty feet would start at the property line at the top of the bank and not from the waterway.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board called the following speaker:

Tim Evans – Mr. Evans appeared in opposition and stated the study from N. C. State University indicated much of Rockfish Creek in Cumberland County is surrounded by urban areas which means it is at risk for polluted runoff, sedimentation and erosion. Mr. Evans stated riparian buffers are nature's last sponge to slow down runoff before it reaches the surface water and vegetation is the key. Mr. Evans stated he does not feel fifty feet is enough and the county needs to look at this before it is too late because once erosion begins, it is out of control.

There being no further speakers, Chairman Faircloth closed the public hearing.

Commissioner Keefe asked Mr. Evans if his opinion was that the proposed text amendment took a broad brush approach across the county rather than specifically targeting certain areas. Mr. Evans stated the article he quoted was from 2003 and the impact of erosion is already happening in areas such as Gray's Creek, Hope Mills and into Hoke County where development has already occurred. Mr. Evans stated the proposal is to go fifty feet from the top of the bank and his request is to leave the fifty feet untouched, not just twenty or thirty feet of it.

Mr. Lloyd referenced the N. C. Riparian Protection Rules and stated according to the models from the state, thirty feet is adequate. Commissioner Edge stated strict conditions need to be placed on the situation and it needs to be monitored carefully because water is an important resource that has to be protected. Mr. Lloyd stated he would like to see the city also apply the riparian buffers and it would be easier to negotiate fifty feet rather than one hundred feet.

Commissioner King asked whether action on the text amendment was time sensitive because Mr. Evans made a good point. Mr. Lloyd stated there is more development proposed along Rockfish Creek and the hope is to have this in place as soon as possible.

Mr. Lloyd also stated no points have been made that disprove the research conducted by N. C. State University and research used by DENR.

Commissioner Council stated research has been conducted and several committees have studied the matter prior to it coming before the Board. Commissioner Council stated the Board must take some action during this meeting while it continues to study the situation.

Chairman Faircloth stated the Board does not want to make a rule it can not enforce and without adding new staff to be on site and by adopting what the state recommends, the Board has done a service to the community. Chairman Faircloth stated should the Board see that more can be done, then the matter can be revisited.

MOTION: Commissioner Council moved to follow the recommendation of the Cumberland County Joint Planning Board.

SECOND: Commissioner Evans

DISCUSSION: Commissioner King stated an improvement has been put in place and even though the Board may not fully agree with every aspect of the text amendment, it is important to conserve natural resources for our future. Commissioner Edge stated for the record that the Board should review this every two years in order to monitor the situation. Consensus favored a review every two years.

VOTE: UNANIMOUS (7-0)

Minimum Housing Code Enforcement

F. Case Number:	MH 6649-2012
Property Owner:	Bobbie Jacobs
Property Location:	3104 Smith Road, Fayetteville, NC
Parcel Identification Number:	0415-37-2354

AFFIDAVIT OF THE HOUSING INSPECTOR'S REPORT
BEFORE THE BOARD OF CUMBERLAND COUNTY COMMISSIONERS

I, Joey Lewis, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

BACKGROUND: That the following is a report on Minimum Housing case number MH 6649-2012.

Property Owner: Bobbie Jacobs
Property Address: 3104 Smith Road, Fayetteville, NC
Tax Parcel Identification Number: 0415-37-2354

SYNOPSIS: This property was inspected on 1/11/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 2/8/2012. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 4/8/2012. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 6/8/2012, no corrective action has been made to the structure. The structure is presently vacant and unsecured. In its present state, the structure constitutes a fire, health, and safety hazard.

The estimated cost to repair the structure to a minimum standard for human habitation is \$30,000.00. The Assessor for Cumberland County has the structure presently valued at \$500.00.

RECOMMENDATION: IT IS THE RECOMMENDATION OF THE PLANNING & INSPECTION DEPARTMENT THAT THE STRUCTURE BE DEMOLISHED, AND THE DEBRIS REMOVED FROM THE LOT.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case, and to order the property owner to remove or demolish the dwelling within 30 days. To order the owner to remove or demolish the dwelling within 30 days; to order the Inspector to remove or demolish the dwelling, if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

G.	Case Number:	MH 6672-2012
	Property Owner:	Patricia Moore
	Property Location:	5521 Jackson Street, Hope Mills, NC
	Parcel Identification Number:	0413-98-7349

AFFIDAVIT OF THE HOUSING INSPECTOR'S REPORT
BEFORE THE BOARD OF CUMBERLAND COUNTY COMMISSIONERS

I, Joey Lewis, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

BACKGROUND: That the following is a report on Minimum Housing case number MH 6672-2012.

Property Owner: Patricia Moore
Property Address: 5521 Jackson Street, Hope Mills, NC
Tax Parcel Identification Number: 0413-98-7349

SYNOPSIS: This property was inspected on 2/17/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 3/21/2012. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 5/23/2012. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 6/8/2012, the required corrective action has not been made to the structure. The structure is presently vacant and unsecured. In its present state, the structure constitutes a fire, health, and safety hazard.

The estimated cost to repair the structure to a minimum standard for human habitation is \$30,000.00. The Assessor for Cumberland County has the structure presently valued at \$500.00.

RECOMMENDATION: IT IS THE RECOMMENDATION OF THE PLANNING & INSPECTION DEPARTMENT THAT THE STRUCTURE BE DEMOLISHED, AND THE DEBRIS REMOVED FROM THE LOT.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case, and to order the property owner to remove or demolish the dwelling within 30 days. To order the owner to remove or demolish the dwelling within 30 days; to order the Inspector to remove or demolish the dwelling, if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

H. Case Number: MH 6550-2011
Property Owner: Mildred G. & Charlesene McNeill
Property Location: 4904 Wall Street, Linden, NC
Parcel Identification Number: 0574-65-9691

AFFIDAVIT OF THE HOUSING INSPECTOR'S REPORT
BEFORE THE BOARD OF CUMBERLAND COUNTY COMMISSIONERS

I, George Hatcher, Inspector for the County of Cumberland Inspection Department, acting in my official capacity, being duly sworn, depose and say:

BACKGROUND: That the following is a report on Minimum Housing case number MH 6550-2011.

Property Owner: Mildred G. & Charlesene McNeill
Home Owner: Mildred G. & Charlesene McNeill
Property Address: 4904 Wall Street, Linden, NC
Tax Parcel Identification Number: 0574-65-9691

SYNOPSIS: This property was inspected on 7/27/2011. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 8/15/2011. Tim Blue attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 11/25/2011. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 6/6/2012, the required corrective action has not been made to the structure. The structure is presently vacant and reasonably secure. In its present state, the structure constitutes a fire, health, and safety hazard.

The estimated cost to repair the structure to a minimum standard for human habitation is \$50,000.00. The Assessor for Cumberland County has the structure presently valued at \$0.00.

RECOMMENDATION: IT IS THE RECOMMENDATION OF THE PLANNING & INSPECTION DEPARTMENT THAT THE STRUCTURE BE DEMOLISHED, AND THE DEBRIS REMOVED FROM THE LOT.

This is the duly advertised/noticed public hearing set for this date and time.

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case, and to order the property owner to remove or demolish the dwelling within 30 days. To order the owner to remove or demolish the dwelling within 30 days; to order the Inspector to remove or demolish the dwelling, if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (7-0)

I. REMOVED FROM THE AGENDA – MH 6431-2011

Items of Business

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

A) Consideration of Options Regarding Board of Elections Building

BACKGROUND:

At the June 7, 2012 Facilities Committee meeting, a report was provided regarding the potential commercial use for the building located at 301 E. Russell Street, which currently houses the Board of Elections. As you are aware the Board of Elections will soon be relocating to the E. Newton Smith Center. In recent months, there have been discussions with the Facilities Committee regarding the future use of that building once it becomes vacant. Specifically at issue is whether to retain the property to serve the needs of another County function or to pursue the sale of the building. The report included considerations that took into account the value and the potential use of the building (see attached memo). A key consideration is the value of the proceeds that could be potentially generated from the sale of this building vs. the value of retaining the building for needed County office space, which is a particular challenge created by shortages in available facilities. Following the report, the Facilities Committee referred this matter for further consideration by the Board of Commissioners.

RECOMMENDATION/PROPOSED ACTION:

Consider the following options for the building located at 301 E. Russell Street:

- 1) Retain property for internal County office space needs, or
- 2) Place the building on the market for sale or lease.

James Lawson, Assistant County Manager, reviewed the above background information and stated the Board of Elections will be relocating to the E. Newton Smith Center after the runoff election is complete in July 2012. Mr. Lawson stated there have been several discussions regarding the use of the facility and the Facilities Committee directed staff to assess the marketability of the options available regarding the use of the building to include housing county departments that have outgrown their space or putting the property on the market to sell.

Mr. Lawson stated it was discussed in particular whether to relocate either the Human Resources training staff or the Veterans Services office to the building. Mr. Lawson further explained the county Human Resources office has outgrown its space and has temporarily relocated training staff to vacant offices in the Probation and Parole Departments until other provisions can be made. Mr. Lawson explained the challenges Veteran Services is facing at their current location to include the lack of privacy, inconveniences associated with parking, and accessibility for disabled veterans.

Mr. Lawson stated he sought input from Tom Keith, an experienced local commercial real estate appraiser, regarding the marketability of the building. Mr. Lawson stated he also requested that County Tax Administration staff conduct an analysis of the commercial property sales in and around the downtown area. Mr. Lawson reviewed the following key points that had been shared with the Facilities Committee:

- The building is a brick structure, in excellent condition, with a fairly new roof that was installed in 2009.
- In general, the building is in a desirable location, on a highly visible corner lot, in close proximity to the County Courthouse, a building heavily utilized by the public.
- The physical layout of the building has an open area, along with individual office spaces and ample storage areas, providing flexibility for up-fitting and adaptive re-use.
- Because of the proximity to the Courthouse, the building would probably generate its greatest interest from the legal community, and likely more interest in purchasing versus leasing.
- At approximately 4,860 square feet, the available office space is sufficient to comfortably house a legal practice, as well as many other commercial office operations.
- Based on sales data provided by the tax office, there are a few buildings/spaces that sold in or near the downtown area. Properties located on Hay Street, Maxwell Street, Robeson Street, and Donaldson Street sold at an average of \$125.502 per square foot.
- There is an office building located at 308 Person Street built in 1915 that is currently listed for sale at \$649,000. At 5,714 total square feet, the cost per square foot is \$113.58. According to tax records, it last sold in April 2006 for \$520,000. The current tax value assessed from the last revaluation is \$576,147.
- The current tax value for the County's building at 301 E. Russell Street is \$476,450.
- A key factor to consider is the value of the proceeds that could be potentially generated from the sale of this building as compared to the value of retaining the building for needed County office space, especially with challenges by shortages in available facilities. Further, consideration should be given to costs we could incur for up-fitting/renovating or procuring other available space (such as the E. Newton Smith Center) to house County operations in need of space.

Mr. Lawson stated the Facilities Committee referred this matter to the full Board for further consideration of the two options as recommended. Mr. Lawson responded to questions.

Commissioner Keefe stated he and Commissioner Edge were on different sides of the matter at the Facilities Committee. Commissioner Keefe stated the building has more value to an outside agency because of its location than to the county who would have to make appropriate renovations. Commissioner Keefe stated this would increase costs to the county and keep the building off of the tax books. Commissioner Keefe stated his idea was to sell the building and get it back on the tax books, and then build a first class facility for Veterans Services and Human Resources that will meet their needs as opposed to retrofitting an existing facility.

MOTION: Commissioner Keefe moved to place the building on the market for six months at \$675,000 and if there are no offers during that time period, then the Board would consider further options for using or disposing of the building.

SECOND: Commissioner Melvin

DISCUSSION: Commissioner King asked Commissioner Keefe how he arrived at \$675,000. Commissioner Keefe stated it was based on Tom Keith's assessments. Commissioner Edge stated he respectfully disagreed with Commissioner Keefe and felt the building had more value to the county at this point in time. Commissioner Edge stated the building was in close proximity to the Human Resources Department and the cost to purchase additional land and construct another facility would exceed \$675,000. Commissioner Edge stated the taxes collected on the building at \$600,000 would only be about \$4,400 per year. Commissioner Council stated she was not in favor of a sale because the county needs the space right now and there is no land in close proximity to the courthouse. Commissioner Evans stated he would like to see the building used to house Human Resources because of its location to the courthouse. Commissioner Melvin stated there is sufficient space in the E. Newton Smith building to accommodate the needs as discussed and \$6,000 to \$7,000 would be garnered from taxes on the building once it was sold. Commissioner Keefe stated he was not persuaded the need was as dire as being put forward and he supported putting it on the tax roles. Chairman Faircloth stated should the building sell; it would fit better into the county's long range plans for the E. Newton Smith building. Mr. Martin confirmed the long range plan was to move offices currently in the courthouse to the E. Newton Smith building but Veterans Services was not part of that plan. Mr. Martin stated his understanding was that there were issues with Veteran Services that related to the lack of confidentiality, privacy of interview areas, and the lack of parking space close to the building. Mr. Lawson stated the concern is about the long distance disabled veterans have to travel across the parking lot to even access the building. Commissioner Evans asked if an amendment to the motion could be made to revisit the building for Human Resources should it not sell in six months. Commissioner Keefe stated should the building not sell within six months, its use could be revisited at that time. Commissioner Keefe stated should the motion be approved, he would like

the building to be placed on the market immediately rather than waiting until after the July 2012 runoff election.

VOTE: PASSED (5-2) (Commissioners King, Evans, Keefe, Faircloth, and Melvin voted in favor; Commissioners Edge and Council voted in opposition)

B) Consideration of Request of New Century Solar, LLC, for an Easement Agreement

BACKGROUND:

New Century Solar, LLC, has again requested an easement to install solar panels on the roofs at the New Century Elementary School and library to generate electricity to be supplied to the electric grid. The members of New Century Solar, LLC, are Robert Ferris and Eric Lindstrom of the architectural firm, SFL+A. This firm was the architect for the school project.

This same request was considered by the Board of Commissioners on September 19, 2011. The Board took no action as reflected in the following excerpt from the minutes:

Commissioner Keefe stated as chair of the Facilities Committee, he was not comfortable taking action at this time due to the differences in what was presented, what was intended in the present document, and until such time as the county would not be held responsible for rooftop maintenance costs. Mr. Moorefield advised under the present document, the county would remain responsible for maintaining the roof at what he feels would be an additional cost to the county. Commissioner Faircloth stated the new information negates the vote he made at the Facilities Committee meeting in favor of the solar panels. The consensus of the board was to take no action.

The county attorney advised the attorney for New Century Solar, LLC that the county would require the following terms:

- (1) Termination of the easement if the roofs are destroyed by any casualty;
- (2) Roof maintenance;
- (3) Removal and re-installation of the panels to accommodate any maintenance or repair not performed pursuant to the agreement; and
- (4) Removal of the panels with the roof returned in good repair in the event the system is abandoned without the intent to continue to generate electricity.

The county attorney advised the attorney for New Century Solar, LLC that the county would require any maintenance or removal to be the obligation of a public utility company because a newly formed LLC is essentially judgment-proof.

New Century Solar, LLC has provided an easement agreement which addresses the terms the county attorney advised the county would require as follows:

- (1) As to destruction of the roof, Section 13(c) requires the county to give written notice of its intent to restore or not restore the roof within 90 days of the event causing the building to be damaged. This is acceptable to the county attorney.
- (2) As to roof maintenance, Section 13(b) states New Century Solar, LLC will be responsible for any roof puncture, leak, malfunction or any other event which is caused by the system and requires repairs to the property, including the building or the roof. New Century Solar, LLC, is a newly formed LLC. This is acceptable to the Facilities Committee.
- (3) As to removal for roof maintenance by the county or the school system, Section 13(c) states the LLC will be responsible for the removal and replacement upon notice as far in advance as is reasonably practicable, except in the case of an emergency, and the removal will not exceed 20 days. This is acceptable to the Facilities Committee.
- (4) As to removal of the solar panels if the system is abandoned, section 13(f) states that the LLC will have this responsibility. This is acceptable to the Facilities Committee.

The other material terms in the agreement are summarized as follows:

Section 1(a): Initial term is 20 years with grantee having the right to renew for additional 10 years.

Section 1(b): Compensation of \$5,000 annually during first five years; \$7,500 annually for second 5 years; \$10,000 for each year thereafter.

Section 1(e): Grantee may assign its rights and obligations to third parties.

Section 4(c): Grants additional right to install and operate inverters and any additional equipment necessary to generate and transmit electrical power anywhere else on the property.

Section 4(d): Grants additional right to connect to any electric transformer on the property.

Section 4(f): Prohibits planting of any trees or constructing any improvements on the property which would interfere with the receipt of sunlight.

Section 6(b): Gives New Century access to and the use of the building's electric power and high-speed internet.

Section 12: Creates an obligation for the county to maintain the roof in such a way that it supports the electrical generating system.

Section 13: Creates an obligation for county to pay for any damage to the system caused by the willful misconduct of its agents, employees, contractors, invitees or representatives.

Section 15: Requires county to carry commercial general liability insurance in amount of coverage not less than what it carries with respect to other similar properties it owns.

Section 16: Requires county to defend and indemnify grantee for any claims made against grantee which are proximately caused by county's ownership of the property.

Section 24: States that if county defaults on any of its obligations, damages which may be sought by grantee include loss of tax benefits, including any interest and penalties thereon, derived from the system.

Section 27(e): States that the county is assuring there are no hazardous materials contaminating the property.

Section 27(f): States that the county cannot receive or make any use of the electrical output.

Section 34: Provides that grantee may designate some materials as trade secrets and county must comply with certain conditions before disclosing those trade secrets; however; nothing has been designated as a trade secret.

Section 35(g): States the agreement has been negotiated by the parties. The county attorney advises it has not.

SUMMARY:

The installation of this system on this roof creates the potential that any roof maintenance will become more difficult. The LLC has agreed that it will be responsible for the repairs caused by the system and for removal of the panels if necessary for other repairs. The LLC is newly-formed and has no assets other than this system which will be fully encumbered by financing. No financial information has been requested of the LLC. The LLC has the right to assign all of its rights and obligations to another entity. These circumstances create the potential for additional maintenance costs to be borne by the school system with county funding. The agreement further creates potential liabilities and obligations on the county which otherwise do not exist. Finally, although the county's bond counsel has indicated this transaction does not impair the financing associated with this school, the county attorney advises that the county should receive a formal opinion from bond counsel in that regard. Some of these conditions must really be met by the school system and the school system needs to be a party to this agreement for that reason. A document has been provided in which the school system consents to the agreement.

RECOMMENDATION/PROPOSED ACTION:

The Facilities Committee recommends approval of the agreement because the building was designed for it, the educational value of the project for the school system, the positive image it creates for the county and the potential risks are not significant.

Mr. Moorefield stated in September, 2011 New Century Solar, LLC submitted a request to the Board of Commissioners for an easement to place solar panels on the roofs of New Century Elementary School and library; however, the Board of Commissioners took no action at that time and due to issues related to financing, the project stagnated. Mr. Moorefield stated New Century Solar, LLC is seeking approval from the Board of Commissioners and the recommendation of the Facilities Committee is that the easement agreement be granted. Mr. Moorefield stated the building was architecturally designed to accommodate solar panels, members of the school systems have spoken to the educational value of the project, and the project's use of renewable energy technology creates a positive image for the county.

Mr. Moorefield stated the equipment is quite expensive and there are some risks associated with the project should something happen following the roof installation. Mr. Moorefield stated Robert Ferris indicated his firm would be responsible and take care of any such circumstances. Mr. Moorefield referenced the background and summary material as provided above.

MOTION: Commissioner King moved to approve.

SECOND: Commissioner Edge

DISCUSSION: Chairman Faircloth asked whether an easement or lease was being granted. Mr. Moorefield stated it has been described as an easement but because the agreement is eighteen pages, it contains more language than an easement. Chairman Faircloth asked where the agreement contained a right to review date. Mr. Moorefield stated the language provides for a twenty year initial term with additional renewal term of ten years, for a total of thirty years. Chairman Faircloth asked about the life of the equipment. Robert Ferris of the SFL+A architectural firm stated this technology has been in Florida for over thirty-five years with minimal degradation to the system so it should function for at least that long, if not longer. Commissioner Keefe stated the project included a consolidated effort of a lot of groups to include the Public Works Commission (PWC) and he felt it was a good program for everybody.

VOTE: UNANIMOUS (7-0)

5. Nominations to Boards and Committees

A. Board of Adjustment (1 Vacancy)

Commissioner Council nominated Joseph Dykes.

B. Fayetteville Area Convention and Visitors Bureau (1 Vacancy)

Commissioner King nominated Gwen Holloman.

6. Appointments to Boards and Committees

A) ABC Board (1 Vacancy)

Nominee: Wade Hardin

B) Adult Care Home Community Advisory Committee (4 Vacancies)

Nominees: Toney Edwards (Reappointment)

Yvonne Booth (Reappointment)

Harry Southerland (Reappointment)

Herman Dudley (Reappointment)

C) Air Quality Stakeholders (16 Vacancies)

Nominees:

Citizen Stakeholder: Daniel Rodriguez (Reappointment)
Jamison Stewart (Reappointment)

Fort Bragg Stakeholder: Gregory Bean

Homebuilders Association Stakeholder: John Gillis (Reappointment)

Industry Stakeholder: Gary Slater (Reappointment)

PWC Stakeholder: Carolyn Hinson (Reappointment)

Medical Rep. Stakeholder: Dr. Ana McDowell (Reappointment)

Town of Stedman Stakeholder: Commissioner Peggy Raymes
(Reappointment)

Fayetteville-Cumberland
Chamber of Commerce Stakeholder: Doug Peters (Reappointment)

Fayetteville Technical
Community College Stakeholder: Phillip Jackson

Environmental Rep. Stakeholder: Jon Parsons (Reappointment)

<u>Town of Hope Mills Stakeholder:</u>	Commissioner Pat Edwards
<u>Town of Godwin Stakeholder:</u>	Natalee Ezzell (Reappointment)
<u>Town of Linden Stakeholder:</u>	Commissioner Elizabeth Small (Reappointment)
<u>Town of Wade Stakeholder:</u>	Commissioner Johnny Lanthorn (Reappointment)
<u>Town of Spring Lake Stakeholder:</u>	Alderman Napoleon Hogans

There being an equal number of vacancies and nominees,

MOTION: Commissioner Keefe moved to appoint by acclamation all nominees to their respective positions.
 SECOND: Commissioner Evans
 VOTE: UNANIMOUS (7-0)

7. Closed Session:
- A. Attorney Client Matter
Pursuant to NCGS 143-318.11(a)(3)
 - B. Personnel Matter(s) Pursuant
To NCGS 143-318.11(a)(6)

MOTION: Commissioner Council moved to go into closed session for attorney client matters pursuant to NCGS 143-318.11(a)(3) and personnel matters pursuant to NCGS 143-318.11(a)(6).
 SECOND: Commissioner Melvin
 VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Edge moved to reconvene in open session.
 SECOND: Commissioner Council
 VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to adjourn.
 SECOND: Commissioner Evans
 VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 10:05 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board