

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MARCH 19, 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
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 Melvin called on Dr. Mike Martin of Biblical Counseling Services who provided the invocation followed by the Pledge of Allegiance to the American flag led by Corey Powell, a junior at Fayetteville Christian School.

Chairman Faircloth recognized the following elected officials in attendance: Lee Warren, Cumberland County Register of Deeds; Sara Piland, Town of Eastover Councilman; Mayor Chris Ray, Town of Spring Lake; James Christian, Town of Spring Lake Alderman; and Wayne Goodwin, North Carolina Commissioner of Insurance and State Fire Marshal. Chairman Faircloth also recognized Mayor Deborah Godwin, Town of Godwin.

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:

Mayor Deborah Godwin –Mayor Godwin thanked the Board of County Commissioners for their support of the Town of Godwin’s recent park project. Mayor Godwin expressed appreciation to county administration and county finance staff for their role

in submitting paperwork to the state on behalf of the citizens of the Town of Godwin and to staff of the Parks and Recreation Department. Mayor Godwin extended an invitation to attend the Godwin Park ribbon cutting on Friday, March 30, 2012 at 10:00 a.m.

Paul Galloway – Mr. Galloway thanked the Board of Commissioners for their support of the Airborne and Special Operations Museum (ASOM) and stated in 2011 over 145,000 individuals toured the museum for a total of 1.7 million since the museum opened. Mr. Galloway stated 4,500 individuals toured the N. C. Veterans Park on opening day and there were just under 21,000 attendees present on the parade field for the Moving Wall display. Mr. Galloway invited Board members to view the “Animal Called POW” exhibit, the Medial of Honor Wall and the “Easter Egg Scramble”.

Charles Fager - Mr. Fager stated he is a frequent traveler of I-95 and read the NCDOT report regarding tolls on I-95. Mr. Fager distributed a fact sheet he developed citing reasons he felt it was a bad idea and appealed to the Board of Commissioners to speak up about the tolls before I-95 is turned into the road to disaster for eastern North Carolina. Mr. Fager questioned the projections about future traffic numbers and asked the Board to adopt a resolution opposing tolls on I-95.

Recognition and Presentation by Mr. Wayne Goodwin, North Carolina Commissioner of Insurance and State Fire Marshal, to the Stoney Point Fire Department for Achieving the Accredited Agency Status from the Commission on Fire Accreditation International

Chairman Faircloth called on Wayne Goodwin, North Carolina Commissioner of Insurance and State Fire Marshal, who recognized the Stoney Point Fire Department for recently being awarded the Accredited Agency Status by the Center for Public Safety Excellence. Mr. Goodwin stated the Stoney Point Fire Department has provided exemplary fire, rescue and hazardous material prevention services to its 21 square mile community for nearly fifty years and has satisfied more than two hundred fifty performance indicators based on the unique aspects of their community. Mr. Goodwin stated as an internationally accredited fire agency, the Stoney Point Fire Department has been recognized as a leader in North Carolina and at the national level. Mr. Goodwin stated the Stoney Point Fire Department is the second volunteer agency in the United States and the first volunteer agency in North Carolina to achieve international accreditation.

Mr. Goodwin also recognized Stoney Point Fire Chief Freddie Johnson for being selected as Volunteer Fire Chief of the Year by the N. C. Association of Fire Chiefs. Mr. Goodwin stated Chief Johnson was recognized for his emphasis on innovation, professional development, personal integrity, service to the public and contributions to the fire service as a whole.

Mr. Goodwin further recognized Derrick Clausen from the Department of Insurance and Office of the State Fire Marshal and thanked for his twenty years of service at the Stoney Point Fire Department.

Mr. Goodwin presented the Accredited Agency Status award from The Commission on Fire Accreditation International to Chief Johnson who accepted it on behalf of the Stoney Point Fire Department. Mr. Goodwin also presented the Volunteer Fire Chief of the Year award from the N. C. Association of Fire Chiefs to Chief Johnson for his dedication and service to his department, community and state.

1. Approval of Agenda

MOTION: Commissioner King moved to approve the agenda.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

2. Consent Agenda

A. Approval of minutes for the February 17, 2011 special meeting and the February 21, 2012 regular meeting

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

BACKGROUND:

The North Carolina Department of Transportation has received petitions requesting the following streets be placed on the State Secondary Road System for maintenance (see attached):

Tyndallwood Subdivision: Tyndallwood Drive, Auger Lane

DOT has determined that the above streets are eligible for addition to the state system.

RECOMMENDATION/PROPOSED ACTION:

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

C. Approval of Redemption of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – PIN: 0502-70-3699, Cross Creek Township

BACKGROUND:

On or about January 19, 2000, the County acquired, by tax foreclosure sale, property previously owned by Sarah J. Robinson at:

2 LOTS MCNEILL ST.; (LOCATED ON MCNEILL ST.)
PIN: 0502-70-3699; CROSS CREEK TOWNSHIP

The amount owed on the foreclosure judgment plus interest and costs is \$4,576.88.

Mrs. Robinson, who is the former owner, has offered as the former owner to purchase the County's interest in such property and exercise her equity of redemption for \$4,576.88 and have deposited the \$4,726.88 with the Finance Office.

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

RECOMMENDATION/PROPOSED ACTION:

That the Board of Commissioners' consider whether to accept the offer of Sarah J. Robinson to exercise her equity of redemption to re-purchase the property described above for \$4,576.88.

- D. Approval of a Resolution Appointing Robert M. Tucker as the Deputy Finance Director for the Eastover Sanitary District

BACKGROUND:

North Carolina General Statutes Chapter 159, Article 3, entitled, "The Local Government Budget and Fiscal Control Act", requires all checks drawn on an official depository be signed by the Finance Officer or a properly designated Deputy Finance Officer and countersigned by another official of the local government designated for this purpose by the Governing Board. The act also requires the Eastover Sanitary District Deputy Finance Officer to have a faithful performance bond in an amount not less than \$10,000 or more than \$250,000.

I recommend that Robert Tucker, Accountant II, be appointed as a Deputy Finance Officer for Eastover Sanitary District effective April 1, 2012.

RECOMMENDATION/PROPOSED ACTION:

1. Approve the appointment of Robert Tucker as Deputy Finance Officer for the Eastover Sanitary District;
2. Provide a faithful performance bond in the amount of \$20,000 for Robert Tucker;
3. Approve resolution implementing the above recommendations.

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

RESOLUTION

WHEREAS, due to the operation requirements unique to the Eastover Sanitary District; and

WHEREAS, the timing, amounts, or payees of these checks cannot be anticipated and, in most cases, the checks must be issued immediately; and

WHEREAS, the timing of the checks requires the appointment of a Deputy Finance Officer and, in addition, more than one person must be authorized to countersign each check; and

WHEREAS, North Carolina General Statute Chapter 159, Article 3, entitled “The Local Government Budget and Fiscal Control Act”, authorizes the Governing Board to appoint Deputy Finance Officers to designate individual(s) to countersign the checks, and to fix the amount of the faithful performance bond to be provided by the appointee.

NOW THEREFORE, to facilitate the operational requirement of the Eastover Sanitary District, the Board of County Commissioners hereby RESOLVES that:

1. Robert Tucker is appointed a Deputy Finance Officer and is authorized to sign the checks/drafts issued on the checking and savings accounts maintained by Eastover Sanitary District.
2. The appointee will provide a faithful performance bond in the amount of \$20,000.00.

Adopted this 19th day of March, 2012.

E. Approval of a Proclamation Celebrating 100 Years of Girl Scouting and Proclaiming 2012 as “Year of the Girl” in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation

A Proclamation Celebrating 100 Years of Girl Scouting

WHEREAS, March 12, 2012, marks the 100th anniversary of Girl Scouts of the USA, which began in 1912 when Juliette “Daisy” Gordon Low gathered 18 girls in Savannah, Georgia, to provide them the opportunity to develop physically, mentally, and spiritually; and,

WHEREAS, for 100 years, Girl Scouting has helped build millions of girls and women of courage, confidence, and character who act to make the world a better place; and,

WHEREAS, the award-winning Girl Scout Leadership Program helps girls discover themselves and their values, connect with others, and take action to make the world a better place; and,

WHEREAS, the Girl Scout Gold Award, the highest honor in Girl Scouting, requires girls to make a measurable and sustainable difference in their community and honors leadership in the Girl Scout tradition; and,

WHEREAS, core programs around Science, Technology, Engineering, and Math (STEM), environmental stewardship, healthy living, financial literacy, and global citizenship help girls develop a solid foundation in leadership; and,

WHEREAS, through the dedication, time, and talent of thousands of volunteers of different backgrounds, abilities, and areas of expertise, the Girl Scout Program is brought to more than 70,000 girls in grades K-12 across the state of North Carolina; and,

NOW, THEREFORE, we, the commissioners of Cumberland County, do hereby applaud the Girl Scouts of the USA for their 100 years of leadership and expertise as the voice for and of girls, and salute them as they proudly proclaim 2012 as “Year of the Girl.”

Presented this 19th day of March, 2012.

- F. Approval of a Proclamation Proclaiming March 19-24, 2012 as “Arbor Week and Tuesday, March 20, 2012 as “Arbor Day” in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation

WHEREAS, the County of Cumberland recognizes the importance of trees to the economic, aesthetic, and ecological well-being of our community; AND

WHEREAS, it is recognized that planting and maintaining healthy trees in our ever-changing society are both desirable and necessary; AND

WHEREAS, Arbor Day is a long-standing American tradition that represents an important element of our national heritage; AND

WHEREAS, a day is set aside each year in North Carolina to show just how much trees are appreciated and to encourage the planting of trees in our community, AND

WHEREAS, Cumberland County-Cooperative Extension is a community partner with the Cape Fear Botanical Garden in the effort to restore our trees; AND

WHEREAS, individuals can act in this county to improve the environment by planting trees and ensuring that these trees are protected and receive proper maintenance in the years ahead;

NOW THEREFORE, We, the Board of County Commissioners of Cumberland County,

North Carolina, do hereby proclaim the week of March 19-24, 2012 as Arbor Week and Tuesday, March 20, 2012 to be

Arbor Day in Cumberland County

AND urge our citizens to take an active part to ensure our community has a better quality of life by providing a clean environment with more trees.

Presented this 19th day of March, 2012.

G. Approval of Proclamation Proclaiming April 2012 as Child Abuse Prevention and Awareness Month in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation

April 2012 Child Abuse Prevention Month

Whereas, Based on national best practice and research, The Child Advocacy Center (CAC) was founded in 1993 by a group of concerned local professionals seeking to coordinate services to child abuse victims and their families; and

Whereas, The primary goal of the CAC is to alleviate the trauma children experience once a disclosure of sexual abuse or serious physical abuse occurs; and

Whereas, The CAC provides a safe and child-friendly environment where professionals from 19 community agencies come together to interview, investigate and provide support for abused children and their families; and

Whereas, The CAC reduces the number of interviews for child victims of abuse by providing specially trained professionals to conduct forensic interviews in a centralized location; and

Whereas, The CAC provides continuing education to professionals who serve child abuse victims and child abuse prevention and awareness programs to the entire community; and

Whereas, The CAC coordinates Multidisciplinary Team case reviews where professionals from multiple agencies come together to plan the best course of legal and supportive action for the child abuse victim; and

Whereas, National research has determined that this type of coordinated approach can help alleviate trauma for children, increase the prosecution rate of perpetrators, and be fiscally beneficial to the community; and

Whereas, The Child Advocacy Center provided services to 595 child victims of physical and/or sexual abuse during 2011 which saved the community over \$500,000.

Now, Therefore, We, the Cumberland County Board of Commissioners, on behalf of the citizens of Cumberland County, do hereby proclaim April 2012 as Child Abuse Prevention and Awareness Month in Cumberland County, NC and recognize the Child Advocacy Center and the work of its community partners in creating a safer community for all and protecting our community's children.

Presented this 19th day of March, 2012.

- H. Approval of a Proclamation Proclaiming April 2012 as "National County Government Month" and Encouraging Citizens to Participate in the "Healthy Counties, Healthy Families" Activities

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation

National County Government Month - April 2012
"Healthy Counties, Healthy Families"

WHEREAS, the nation's 3,068 counties provide a variety of essential public services to communities serving more than 300 million Americans; and

WHEREAS, Cumberland County and all counties take seriously their responsibility to protect and enhance the health, welfare and safety of its residents in sensible and cost-effective ways; and

WHEREAS, county governments are essential to America's healthcare system and are unique in their responsibility to both finance and deliver health services through public hospitals and clinics, local health departments, long-term care facilities, mental health services and substance abuse treatment, and coverage programs for the uninsured; and

WHEREAS, National Association of Counties President Lenny Eliason is encouraging counties to promote healthy living and lifestyle choices in communities across the country through his 2011-12 "Healthy Counties" presidential initiative; and

WHEREAS, each year since 1991 the National Association of Counties has encouraged counties across the country to actively promote their own programs and services to the public they serve;

WHEREAS, during the month of April 2012, Cumberland County will conduct public awareness events to educate citizens about the role and functions county government performs and will recognize its veteran county employees for their years of service.

NOW, THEREFORE, BE IT RESOLVED THAT We, the Board of County Commissioners of Cumberland County, do hereby proclaim April 2012 as National County Government Month and encourage all County officials, employees, schools and residents to participate in county government celebration activities.

Presented this 19th day of March, 2012.

- I. Report and Recommendation of the Cumberland County Finance Committee Meeting on March 1, 2012
 - 1) Request to Reimburse Legal Defense Expenses

BACKGROUND:

The Finance Committee met on March 1, 2012, and discussed a memorandum from the Sheriff requesting reimbursement of legal expenses incurred in defending the Sheriff's Office in pending litigation. These expenditures have been paid out of the Sheriff's budget. The request is to reimburse the Sheriff's budget for the amount already incurred and any future expenditures by transferring the expenditures to the General Litigation Fund.

RECOMMENDATION/PROPOSED ACTION:

Consider approval of request to reimburse the Sheriff's Office for legal defense expenses incurred in the course of defending legal actions against the County or Sheriff's Office.

- 2) Disaster Management Recovery Services Bid Award

BACKGROUND:

The Finance Committee met on March 1, 2012, and discussed an item pertaining to the rebid of the Management Recovery Services bid on January 31, 2012. The original bid was rejected based on only receiving one bid. Three bids were received for Management Recovery and Consulting Services which were reviewed by Emergency Services and Solid Waste.

Disaster Management, Recovery and Consulting Services are services that are needed in the event that Cumberland County experiences a "disaster" i.e., hurricane, tornado, etc. resulting in the need for extensive clean up. They would "support the oversight and management of debris recovery contractors". This service provides a range of related services, i.e., damage assessment, training, emergency planning, infrastructure restoration, facilitate communication with FEMA, MHW, state and federal agencies, County insurance representatives, pre-event planning, post-event reconstruction, grant funding and reimbursement services. The type of disaster and the severity of the event determine which services may actually be needed.

Kenny Currie, Tim Mitchell, Gene Booth and Robert Howard reviewed and analyzed the bids and recommend that the contract be awarded to O'Brien's Response Management, the lowest responsive, responsible bidder. The item was approved unanimously.

RECOMMENDATION/PROPOSED ACTION:

Consider approval of the Disaster Management Recovery Services bid award.

- 3) Adoption of Changes to the Kelly Hills/Slocomb Road Water and Sewer District Rate Schedule and Administration Policy

BACKGROUND:

After reviewing the Kelly Hills/Slocomb Road rates and administration policy, it was noted that the rate schedule has not been updated since it was initially adopted before project completion. Kelly Hills' customers are being charged the outside city limits, flat monthly sewer rate in accordance with the contract with the provider.

The rate schedule has been updated to accurately reflect that Kelly Hills' customers are subject to rates that the sewer service provider charges to outside city limit customers. The item was approved unanimously.

RECOMMENDATION / PROPOSED ACTION:

Consider approval of the Finance Committee's recommendation of the revised Kelly Hills/Slocomb Road Rates Schedule to agree with the Administration Policy.

- J. Consideration of Report and Recommendation of the Cumberland County Facilities Committee Meeting on March 1, 2012. (For Information)
- K. Consideration of Report and Recommendation of the Cumberland County Policy Committee Meeting on March 1, 2012
 - 1) Revised Wrecker and Tow Service Ordinance

BACKGROUND:

At its February 2, 2010 meeting, the Wrecker Review Board voted unanimously to recommend the attached draft of revisions to the Wrecker and Tow Service Ordinance, codified as Chapter 9, Article IV of the *Cumberland County Code*; a revised Fee Schedule; and revisions to the Rules and Regulations adopted pursuant to the ordinance. The Wrecker Review Board has been studying these revisions since August, 2011. At its March 1, 2012 meeting, the Policy Committee voted to recommend these changes to the Board of Commissioners.

Below is a summary of the changes in each section of the proposed revised ordinance. The proposed Rules have been revised to reflect these changes.

Section 9-51. Definitions. Omits definitions not used in the revised ordinance.

Section 9-52. Policy. No changes.

Section 9-53. Rotation lists established; use by Sheriff and Highway Patrol. New title to section but no significant changes.

Section 9-54. Wrecker inspector; office created. No significant changes.

Section 9-55. Application for permit. No longer called “license” but called “permit” instead. Otherwise, no significant changes.

Section 9-56. Permitting. No longer called “license” but called “permit” instead. Otherwise, no significant changes.

Section 9-57. Mandatory refusal of application. No significant changes.

Section 9-58. Conditions precedent to issuance of permit. No significant changes.

Section 9-59. Duties and requirements of permitted operators under this article.

Significant changes are as follows:

- References recovery vehicles by the definitions used in Section 9-51.
- Allows phone listing outside normal phone book.
- Eliminates the requirement of attendant on duty on storage lot and allows 30 minute response time to meet someone at storage lot.
- Moves prohibition on referral of business to another section.
- Adds new requirement of 8 hours of approved training for all employees to be completed within 180 days of employment.

Old Section 9-60 on additional equipment authorized is removed. Can be handled by Rules.

Section 9-60. Storage of vehicles and personal property. Removes section on reimbursement by county and state for impoundment and storage of vehicles held for evidence in certain circumstances. The state is not bound by our ordinance and there is a judicial process for addressing this.

Section 9-61. Wrecker Review Board. No significant changes.

Section 9-62. Regulations/Rules. Makes it clear that Wrecker Review Board is advisory only with regard to establishing regulations/rules.

Section 9-63. Insurance. Increases garage and auto liability from \$300,000 to \$1,000,000. Prohibits coverage of multiple businesses on the required policies.

Section 9-64. Hold harmless provision. No significant changes.

Section 9-65. Cost and inspections. Eliminates the waiver of administrative fees for vehicles with zero salvage value. Otherwise, no significant changes.

Section 9-66. Fees. Gives the Board of Commissioners authority to adopt new fee schedule. Eliminates requirement of consultation with operators and public hearing.

Section 9-67. Solicitation of business; referral of business. Moves the referral of business section from the former section on duties of operators because operators have no control over the persons covered by the prohibition on referring services.

Section 9-68. Suspension or revocation of permit. Significant changes are as follows:

- Requires any notice of violation from wrecker inspector to be in writing rather than verbal warning.
- Adds failure to timely respond or unprepared responses as basis for suspension.
- Adds failure to comply with non-compliance notice from wrecker inspector within 60

days as additional grounds for revocation.

- Increases suspension period for first violation from 7 days to 30 days.
- Increases suspension period for second violation to 60 days.

Section 9-69. Appeal. No changes.

Section 9-70. Action pending appeal; lapse of time; waiver. No changes.

Section 9-71. Hearing; action of wrecker review board. No changes.

Section 9-72. Hearing procedures. No changes.

Section 9-73. Applicability of amendments to previously permitted operators; noncompliance. No changes.

Section 9-74. Operators prohibited from holding a permit. Clarifies that prohibition applies only to county employees directly involved in the administration of this article and adds their spouses to the list of persons prohibited from participating in rotation.

Section 9-75. Enforcement. Adds that failure to pay civil penalty results in suspension of permit until paid. Otherwise, no significant changes.

RECOMMENDATION/PROPOSED ACTION:

County Attorney recommends that the proposed changes be adopted.

ARTICLE IV. WRECKER AND TOW SERVICE

Section 9-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person, firm or corporation that has submitted an application for placement on the Rotation List, for the County of Cumberland.

Sheriff of Cumberland County or Office of the Sheriff means the elected Sheriff of Cumberland County or anyone designated by him to act on his behalf to administer and enforce this article.

County means Cumberland County.

Driver means any person driving a recovery vehicle upon the streets, roads and public highways of the County of Cumberland.

Heavy Duty Wrecker means a wrecker having tandem-axles and equipped with an apparatus rated a minimum of twenty-five (25) tons by the manufacturer and, in addition, a minimum of one hundred twenty-five (125) feet of 5/8" diameter cable on each winch.

Operator means a person, firm or corporation engaged in and operating the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle

manufactured and designed for the primary purpose of removing and towing disabled motor vehicles and has been placed by the county on the rotation list.

Recovery Vehicle means any wrecker or rollback as defined herein.

Rollback means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 18 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of 3/8" and a minimum length of 50 feet.

Rotation calls means calls for towing services made by the County of Cumberland, the Sheriff or the North Carolina State Highway Patrol using operators from the rotation list.

Rotation List means the two lists maintained by the county and used by the Sheriff or the North Carolina State Highway Patrol pursuant to this ordinance, containing the names of those operators authorized by the county to respond to requests made by either of the above agencies for the towing of vehicles and designated as follows:

- (1) There shall be a wrecker list for the towing of vehicles with a vehicle weight of eight thousand (8000) pounds or less and a heavy-duty wrecker rotation list for the towing of vehicles with a gross vehicle weight in excess of eight thousand (8000) pounds.
- (2) An operator, to qualify for the heavy duty wrecker list, must provide a heavy duty wrecker and in addition, a vehicle having a cab to axle distance of at least 102 inches, a wrecker apparatus rated at a minimum of fifteen (15) tons by the manufacturer, and at least one hundred twenty five (125) feet of 2" diameter cable on each winch.

Tow or towing means the act of moving damaged, disabled, or illegally parked vehicles, vehicles that must be moved for safekeeping and evidentiary purposes, and abandoned, wrecked, dismantled or inoperative vehicles constituting a nuisance.

Wrecker means a truck chassis having a minimum gross vehicle weight of fourteen thousand (14,000) pounds, a boom assembly having a minimum lifting power of sixteen thousand (16,000) pounds, a wheel lift having a minimum lifting power of three thousand (3000) pounds, as rated by the manufacturer, and any additional safety equipment required by the Rules & Regulations.

Wrecker Inspector means the person appointed by the Sheriff pursuant to Section 9-54 of this ordinance.

Section 9-52. Policy.

In order to protect persons who operate motor vehicles inside the county, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms providing towing service.

Section 9-53. Rotation lists established; use by Sheriff and Highway Patrol.

(a) The county, through the North Carolina State Highway Patrol and Sheriff's Office, shall maintain a rotation list for wreckers and heavy duty wreckers, respectively. The North Carolina State Highway Patrol or Sheriff's Office, as applicable, shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotating basis, distributing the calls in consecutive order from the wrecker rotation list or the heavy duty wrecker rotation list, as applicable.

(b) Operators on either rotation list shall respond to the scene of an accident or impoundment when they are called and shall work the accident or impoundment with appropriate equipment. Failure to respond or to respond in a timely manner shall result in the loss of the operator's then position on the rotation list. Multiple failures to respond or to respond in a timely manner may result in suspension of the operator's permit by the wrecker inspector.

(c) The applicable agency shall not call or cause to be called any wrecker operator not on the appropriate rotation list, unless no rotation list wrecker is available, or unless the owner of the vehicle to be towed, or the owner's agent, who is present on the scene, requests that a specific operator be called. The applicable agency may call a wrecker out of sequence on the rotation list where, due to a life-threatening or other emergency situation, proximity to the wreck, estimated response time or equipment needs make it advisable to do so. Out of sequence calls shall count as rotation calls.

Section 9-54. Wrecker inspector; office created.

There is hereby created the Office of Wrecker Inspector in the Sheriff's Office. The Sheriff shall appoint the wrecker inspector, who shall be a sworn law enforcement officer. The wrecker inspector shall be responsible for:

- (1) The administration and enforcement of the wrecker ordinance and regulations/rules, and the safety and welfare of the public in connection with the operation and use of rotation wreckers;
- (2) The inspection of recovery vehicles;
- (3) Investigating complaints of violations by the operators on the rotation list and, for all appeals of suspensions or revocations, presenting the results of his investigations to the Wrecker Review Board;
- (4) Advising the Sheriff and the Wrecker Review Board with respect to matters governed by, or related to, the operation or administration of this article;
- (5) Making recommendations for consideration to the North Carolina State Highway Patrol, Sheriff and Wrecker Review Board with respect to the adequacy of wrecker service in the county to serve the public convenience and necessity and to further the policy stated in this article; and
- (6) All other duties as required by this article.

Section 9-55. Application for permit.

Any operator desiring to be placed on the rotation list to perform towing work at the request of the Sheriff's Office or North Carolina State Highway Patrol, shall submit a Wrecker and Tow Service Application or Annual Renewal Form in duplicate to the county wrecker inspector. Such forms shall be obtained from the Office of the Wrecker Inspector. This form shall state:

- (1) The name of the applicant/owner and name of the business if different from the name of the owner, as well as home and business address and telephone numbers;
- (2) That the storage lot on which towed vehicles will be stored is located within the county along with the lot's physical address and additional information concerning the lot size and security features for the lot;
- (3) The towing equipment available, specifying its size and capacity;
- (4) A complete listing of the insurance policies complying with Section 9-63 which the applicant would place into effect upon permit approval, including the name and telephone number of the agent;
- (5) The name, address and copy of appropriate valid NC driver's license along with a certified DMV driving record for each driver employed by the operator; and
- (6) Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the applicant will comply with the requirements of this article and that it is in the best interest of the public health, safety and welfare to issue the applicant a permit.

Section 9-56. Permitting.

(a) Within sixty (60) days after receiving a complete "Wrecker and Tow Service Application or Renewal Form" the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the requirements of this article, and that it is in the best interest of the public health, safety and welfare, that the applicant's name shall be placed on the rotation list. If the wrecker inspector denies an application, the applicant may appeal the denial to the county Wrecker Review Board in accordance with Section 9-69.

(b) After the initial permit is issued, the operator shall submit an annual renewal application and the wrecker inspector shall conduct annual inspections to insure that the operator continues to comply with the requirements of this article.

Section 9-57. Mandatory refusal of application.

The wrecker inspector shall deny any permit application if he finds that within the last three (3) years the applicant has been convicted of, entered a plea of no contest to, or received a prayer for judgment continued for a felony, a misdemeanor involving moral turpitude, driving under the influence of an intoxicating liquor or drug, reckless driving, death by motor vehicle, or has had his driver's license revoked for any reason.

Section 9-58. Conditions precedent to issuance of permit.

When an application is approved, a permit will be issued when the applicant has complied with the following conditions precedent to issuance of a permit:

- (1) Insurance policies required by this article have been procured from a company licensed to do business in North Carolina and proof of each such policy submitted to the wrecker inspector. Each policy shall be issued in the name of the operator.
- (2) The applicant has complied with all the other requirements of this article and other applicable laws and ordinances.

Section 9-59. Duties and requirements of permitted operators under this article.

(a) The operator shall provide and maintain an approved and appropriate recovery vehicle as defined in Section 9-51 and shall operate said vehicle pursuant to the manufacturer's operation manual.

(b) All recovery vehicles shall be equipped with warning lights required under state law. Recovery vehicles shall operate all warning devices while stopped in or near a street, highway, public vehicular area, or any other area where vehicles may travel. Recovery vehicles are not required to operate warning lights while in tow unless the vehicle is oversized or existing conditions require towing the vehicle substantially below the speed limit. A wrecker or rollback with a vehicle in tow must have auxiliary tow lights attached to the towed vehicle in a manner that allows following traffic to observe whether the towing unit is turning or braking. If a rollback is transporting a vehicle on the bed and the turn and brake lights are visible to the rear, no auxiliary tow lights are necessary. Recovery vehicles shall be marked in accordance with N.C. General Statute 20-101.

(c) The operator shall provide storage space to properly accommodate and protect a minimum of fifteen (15) motor vehicles, towed or otherwise. The storage lot shall be located in Cumberland County. The storage space shall be enclosed by a minimum six (6) feet-high chain link fence, or a fence of similar strength, and shall have all entrances and exits secure from public access. If the operator is on the heavy duty wrecker rotation list, the storage lot must be large enough to accommodate at least one tandem axle tractor truck, one fifty-three (53) foot box trailer and fifteen (15) other vehicles at the same time.

(d) The operator will maintain an office for the towing business at the storage lot location, and will provide a lockable storage room or vault to secure and protect personal property which may have been left in vehicles towed. Operators are prohibited from sharing any office space, employees or equipment with other operators who are on either rotation list.

(e) The operator will maintain a business within the County of Cumberland and shall at a minimum maintain a white-pages telephone listing, yellowbook.com listing or yellowpages.com listing, that includes the full name of the operator, a twenty four (24) hour phone number and the physical address of the business and storage lot.

(f) The operator shall provide continuous 24-hour-a-day tow and pick-up service each day of the year, and there shall be a sign posted at the entrance of the storage lot with the name of the business and a direct phone number for the operator. Standard business hours for a storage lot shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday. Holidays recognized by Cumberland County may be excluded from standard business hours for a storage lot. The operator shall respond at the storage lot during standard business hours within thirty (30) minutes of receiving a phone call from a person requesting to pick up personal property or a vehicle. An operator may charge an after hours access charge only when responding to the storage lot outside of standard business hours and only after advising the person making the request that an after-hours fee will be charged.

(g) The operator shall not release any vehicle directly impounded by Cumberland County, the Cumberland County Sheriff's Office or the North Carolina State Highway Patrol without authorization from the impounding officer or a representative from the impounding agency.

(h) The operator shall ensure that all drivers responding to rotation calls hold an appropriate North Carolina driver's license. The operator shall immediately inform the wrecker inspector of any suspension or revocation of the driver's license of any of its employees responding to rotation calls.

(i) Drivers employed by operators are required to attend and successfully complete eight (8) hours training and pass a written test pertaining to the towing and recovery of vehicles. This training shall be conducted by a recognized training facility or by a trained and certified instructor. In order to qualify, any training must be approved in advance in writing by the wrecker inspector. The operator shall provide proof of the driver's successful completion of this training to the wrecker inspector within 180 days of the employment of such driver.

(j) The operator shall assume all liability for and indemnify and save the county, Sheriff and North Carolina State Highway Patrol harmless from liability for damages sustained by vehicles or personal property while being towed or stored, and for all personal injuries occurring to any of the operator's employees or other persons.

(k) The operator shall maintain the insurance policies required by Section 9-63.

(l) The operator shall charge no more for towing services pursuant to this article than such maximum rates as may be set by the Cumberland County Board of Commissioners.

(m) Operators shall perform towing services for the North Carolina State Highway Patrol and the Sheriff's Office on a rotation basis from the rotation lists in accordance with this article and any rules or regulations approved by the Cumberland County Board of Commissioners for the implementation and administration of this article.

(n) No operator shall use information received by short wave, microwave communication or by other radio frequency device to solicit business subject to being dispatched

as a rotation call. This shall include the use of cell phones, radios or any device that can be used to receive or send communications.

(o) Operators shall not, without the express authorization of a law enforcement agency, move any vehicle from a highway or street or from public property when such vehicle is abandoned or stolen, or has been involved in an accident resulting in property damage in excess of five hundred dollars (\$500.00) or personal injury or a death.

Section 9-60. Storage of vehicles and personal property.

Every operator shall secure in a safe manner any vehicle or personal property contained in or attached to a towed vehicle that comes into the operator's custody pursuant to this article. The area within which towed vehicles and/or personal property shall be stored will meet the minimum requirements of Section 9-59 (c). If at the time the vehicle is towed, the operator's storage area is full, the operator shall secure the vehicle and/or personal property elsewhere as designated by the North Carolina State Highway Patrol or the Sheriff's Office. If a vehicle or personal property in the operator's custody has been confiscated under any statutes or is evidence in a criminal investigation, and the operator's area storage is full, then the operator shall immediately contact the wrecker inspector, or the Highway Patrol sergeant on duty and follow their written instructions to secure the vehicle and/or personal property in a safe manner. The operator shall take reasonable precautions to secure and keep safe from damage vehicles and personal property in the operator's possession. An operator shall not be deemed in violation of this article if the operator has taken such reasonable precautions and a vehicle is nevertheless damaged or property is stolen from the storage area.

Section 9-61. Wrecker Review Board.

(a) There is hereby established a Wrecker Review Board to hear appeals from any decision of the wrecker inspector pursuant to this article, to advise the wrecker inspector as to the regulations needed to enforce this ordinance, and to recommend amendments to the fee schedule, regulations/rules and this article to the Board of Commissioners. The board shall be composed of a chairman, two (2) individual operators selected by a majority vote of all operators, one (1) individual appointed by the Sheriff holding the rank of sergeant or higher, and one (1) individual appointed by the Commander, Troop B North Carolina State Highway Patrol. The chairman shall be selected by the County Board of Commissioners, and shall be a disinterested person who is not a wrecker owner or operator, or a county employee. All members shall serve for terms of two (2) years, and no member shall serve more than two (2) consecutive terms. The wrecker inspector shall serve as an advisor to and shall present complaints and make recommendations to the Wrecker Review Board.

(b) Any operator who is a Wrecker Review Board member and whose permit is suspended is eligible to continue service as a Board member during any period of suspension. Any operator who is a Wrecker Review Board member and whose permit is revoked shall not be eligible to be a member of the Board during the revocation period.

(c) The Wrecker Review Board shall meet at least annually, and as needed upon the determination of the Chairman or as scheduled by the Board.

Section 9-62. Regulations/Rules.

The Board of Commissioners, from time to time, may adopt such regulations and rules as deemed advisable for the administration of this article, whether on the recommendation of the Wrecker Review Board or on the initiative of the Board of Commissioners.

Section 9-63. Insurance.

The following are the minimum insurance requirements to be kept and maintained by any permitted operator under this article at all times such permit is in effect:

- (1) Garage and Auto Liability policy. A garage liability policy covering the operation of the operator's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$1,000,000.00
- (2) Garage Keeper's and On-Hook Coverage policy. A garage keeper's liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount Of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirement for open storage areas. Similarly, each operator must have its own "on hook" insurance policy in the minimum amount of \$100,000.00.
- (3) Notice of change. Each policy required under this section must contain an endorsement by the carrier providing ten (10) days' notice to both the Sheriff's Office, and the insured in the event of any change in coverage under this policy.
- (4) All insurance policies shall be issued in the name of the permitted operator. Operators are prohibited from including multiple businesses on one policy, or having any other business listed as additional insured on any required policies.

Section 9-64. Hold harmless provision.

The operator shall indemnify, save and hold harmless Cumberland County; the Sheriff; the Sheriff's Office; the employees, agents, officers and deputies of the county, the Sheriff and the Sheriff's Office; the North Carolina State Highway Patrol and its troopers, agents and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any act by an operator, or on behalf of an operator by any employee or agent of the operator, which act is the proximate cause of damage to any vehicle or loss to personal property stored or towed by a operator or to any person incident to the recovery and or towing of any vehicle pursuant to this article.

Section 9-65. Costs and inspections.

(a) All costs incident to towing and storage shall be the responsibility of and paid by the owner, or person in charge or possession of the towed and stored vehicle, to the operator and a written receipt shall be issued to the person or entity paying the costs and charges.

(b) Neither the county, the Sheriff nor the North Carolina State Highway Patrol shall assume any liability or responsibility for any vehicle removed from any place without the authority of the North Carolina State Highway Patrol or Sheriff. Each operator shall maintain

approved records and a claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the authorized agency and the wrecker inspector for the investigation of specific written complaints and for compiling surveys under this article. Any operator shall permit any person delegated by the wrecker inspector to inspect its records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate.

(c) Each operator shall collect any administrative cost payable to the county and imposed by this article at the same time that costs of towing and/or storage are collected and this administrative cost shall be remitted to the county Finance Office by the operator when billed by the county. Fees will be paid by the due date. Operators which are more than thirty (30) days late with their fees, will be removed from the rotation, until their fees are paid up to date.

Section 9-66. Fees.

Upon the recommendation of the Wrecker Review Board, the Board of Commissioners may, from time to time, establish the fees that may be charged for services provided by permitted operators, including any administrative or operational fee necessary to administer this article.

Section 9-67. Solicitation of business; referral of business.

(a) It shall be unlawful for the operator of any wrecker or person acting on behalf of any wrecker or towing service, whether that vehicle or towing service holds a permit under the provisions of this article or not, to stop within fifteen hundred (1500) feet of the scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service and/or repair service in connection therewith, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or indirectly, for the purpose of soliciting business or to furnish any towing service and/or any repair service in connection therewith, unless the wrecker operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle, or a relative thereof, or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For the purpose of this section, unlawful solicitation shall include, but not be limited to, the distributing of business cards, tokens, or items of any kind bearing the name of a wrecker or towing firm within fifteen hundred (1500) feet of the scene of an accident or disabled vehicle by a business not summoned to such scene as provided herein.

(b) No employee, volunteer or person associated with any entity, including but not limited to any volunteer fire department or rescue squad, that receives funding from or through the county shall directly or indirectly solicit business for or refer anyone to a wrecker operator to receive towing services that otherwise would be subject to a rotation call. A violation of this subsection shall subject the violator to a civil penalty to the same extent as any other violation of this article as provided in Section 9-76.

Section 9-68. Suspension or revocation of permit.

(a) The wrecker inspector may suspend or revoke a permit issued under this article as provided in subsection (b) for the following grounds:

(1) Any permit was secured by fraud or by the concealment of a material fact by the operator and such fact, if known, would have caused a refusal to issue a permit.

- (2) The operator has materially violated any of the provisions of this article or the regulations/rules adopted by the Cumberland County Board of Commissioners for the administration of this article after having been issued a written warning from the wrecker inspector for a prior violation of the same provisions, regulations or rules.
 - (3) Services rendered by the operator are determined by the wrecker inspector to be detrimental to the public health, safety, or welfare.
 - (4) The operator paid any third person a gratuity for information, or received and acted on information from any county employee or county volunteer as to the location of an accident or disabled vehicle.
 - (5) The operator violated the fee schedule by overcharge, charges not listed on the Fee Schedule for Rotation Wreckers, or false charges for services not rendered.
 - (6) The operator has failed to maintain a wrecker in good working condition.
 - (7) The operator has failed to pay any applicable permit fee due pursuant to this article.
 - (8) The operator has failed to provide a copy of an appropriate and valid NC driver's license and a certified copy of the driver's DMV record within thirty (30) days of the driver's employment or has used a driver on a rotation call who has not received the training required in Section 9-59(i) within 180 days of the driver's employment.
 - (9) The operator has failed to report accidents while towing rotation call vehicles or to furnish such records and reports as may be required by this article and/or the Wrecker Inspector.
 - (10) The operator has failed to comply with any of the provisions of state law related to the operation of wreckers and/or provision of wrecker service.
 - (11) The operator has repeatedly failed to timely respond to rotation calls or has repeatedly responded in an unprepared manner.
 - (12) The operator has failed to comply with any provision of this chapter within sixty (60) days of written notice of noncompliance or the decision of the Wrecker Review Board on an appeal of the noncompliance determination by the wrecker inspector.
- (b) If the wrecker inspector determines that any of the above violations have occurred he may revoke or suspend an operator as follows:
- (1) For a violation of Section 9-69(a) (1) or (12), revocation;

- (2) For a first time violation of Section 9-69(a) (2) through (11), suspension for thirty (30) days;
 - (3) For a second violation of Section 9-69(a) (2) through (11), within a period of two (2) years from the date of the first suspension, suspension for sixty (60) days; and
 - (4) For a third violation of Section 9-69(a) (2) through (12), within a period of two (2) years from the date of the first, revocation.
- (c) Any operator who has his permit revoked shall be eligible to apply for a new permit two (2) years from the date of the revocation.
- (d) The notice of revocation or suspension by the wrecker inspector shall be in writing and notify the operator of:
- (1) The nature of the violation;
 - (2) The wrecker inspector's decision whether the operator should remain on the rotation wrecker list, should be suspended or its permit revoked; and
 - (3) That the operator has a right to appeal the decision of the wrecker inspector to the Wrecker Review Board.

Section 9-69. Appeal.

An operator may appeal a revocation or suspension of the wrecker inspector in writing within ten (10) calendar days of receipt of the notice of such revocation or suspension. Any appeal may be filed either with the wrecker inspector or with the chairperson of the Wrecker Review Board. Such appeal shall briefly state the basis for the appeal.

Section 9-70. Action pending appeal; lapse of time; waiver.

If an appeal is not taken within the time prescribed, then the action of the wrecker inspector shall become final upon the expiration of the time within which an appeal could have been taken. The timely filing of a notice of appeal shall stay the effect of the wrecker inspector's decision until a final action by the Wrecker Review Board on such appeal.

Section 9-71. Hearing; action of wrecker review board.

(a) The hearing before the Wrecker Review Board shall be limited to a determination of whether the action of the wrecker inspector, as reflected in the notice served on the operator, was in the best interest of public health, safety, and welfare of the public served by wrecker operators. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing shall be administrative in nature, and the action of the Wrecker Review Board shall be final. The Wrecker Review Board shall announce its decision at such hearing or any continuation thereof.

(b) The Wrecker Review Board may continue any hearing upon forty-eight (48) hours written notice prior to the date of the hearing; however, if the Wrecker Review Board

affirms the decision of the wrecker inspector, then the effective date of its decision shall be the date of the hearing.

Section 9-72. Hearing procedures.

An appeal hearing before the Wrecker Review Board shall comply with the following procedures:

- (1) The hearing shall be subject to the Open Meetings law;
- (2) The appellant may elect to represent himself or be represented by an attorney of his own choice at his own cost;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, and there shall be a right of cross-examination; and
- (5) The appellant shall be entitled to record and/or transcribe the proceedings at his own cost.

Section 9-73. Applicability of amendments to previously permitted operators; noncompliance.

Whenever this article is amended from time to time by the Board of Commissioners and any amendment shall render any then-approved operator in noncompliance with this article upon the amendment's effective date, a non-complying operator shall have a period of one (1) year from the effective date of the amendment of the article within which to comply.

Section 9-74. Operators prohibited from holding a permit.

No operator which employs any of the following persons, or in which any financial interest is owned by any of the following persons, shall be permitted to provide towing services under this article:

- (1) A Cumberland County Commissioner;
- (2) An employee of Cumberland County or the Cumberland County Sheriff's Office who is directly involved with the administration of this article;
- (3) An employee of the North Carolina State Highway Patrol who is directly involved in the administration of this article; or
- (4) The spouse of any of the above persons.

Section 9-75. Enforcement.

(a) Any violation of this article shall subject the violator to a civil penalty in the nature of a debt.

The amount of the penalties shall be as follows:

- (1) For a violation of Section 9-67 by solicitation or referral of business for towing a vehicle with a gross vehicle weight of over eight thousand (8000) pounds, the amount of the civil penalty shall be Three Thousand Dollars (\$3,000);
- (2) For a violation of Section 9-67 by solicitation or referral of business for towing a vehicle with a gross vehicle weight of eight thousand (8000) pounds or less, the amount of the civil penalty shall be Five Hundred Dollars (\$500); and
- (3) For all other violations of this article, the amount of the civil penalty shall be One Hundred Dollars (\$100).

(b) This civil penalty shall be imposed by a citation served by the wrecker inspector personally or by certified mail, return receipt requested. If the civil penalty is not paid as set forth in the citation within thirty (30) days of receipt thereof, the wrecker inspector may institute an action for collection of the debt pursuant to N.C.G.S. 153A-123(c).

(c) If any permitted operator shall receive a citation and not pay the civil penalty as directed, the permit of such operator shall be suspended thirty (30) days after such operator has received the citation and shall remain suspended as long as the civil penalty remains unpaid.

Sections 9-76 through 9-79 Reserved.

Cumberland County Code
Chapter 9, Article IV-Wrecker and Tow Service
Rules and Regulations Adopted Pursuant to Section 9-62

Rule 1: Wreckers on the County Rotation Wrecker list, must be registered to the owner of the business and the registration must state the actual address of the business on the registration. All registrations must have a Cumberland County address.

Rule 2: Each Wrecker on the County Rotation Wrecker list must be equipped with the following service equipment:

- Ax
- Large Broom
- Fire Extinguisher that contains a charge gauge.
- Shovel
- Three (3) reflective triangles or three (3) traffic cones at least 18 inches in height.
- Two (2) snatch blocks
- Two (2) scotch blocks
- Dollies capable of highway speeds. Go-Jack type dollies do not qualify.
- Forty (40) pound bag of "Speedi-Dry" or similar type absorbent material.
- A minimum of one hundred (100) feet of cable measuring 3/8 inch in diameter.

Rollbacks must have a minimum of fifty (50) feet of cable measuring 3/8 inch in diameter, plus recovery straps and or chains to reach a total distance of one hundred (100) feet. If chains are used, no more than three chains can be used at one time.

Rule 3: Each operator of a recovery vehicle must possess a valid North Carolina driver's license for the class of vehicle that he/she is operating.

Rule 4: The name of the Wrecker or Tow Service shall be clearly painted or stenciled on both sides of the wrecker or tow truck. The vehicle will be maintained in good working order and appearance. All required equipment must be in working order as designed by the manufacturer.

Rule 5: The rotation wrecker operator shall be responsible for clearing the debris (vehicle parts, glass, etc.) from the street or highway and removing that debris from the scene of the accident. No debris will be swept or placed on the side of the roadway and left at the scene of the accident.

Note: Rotation wreckers will not be responsible for removing "Speedy-dry" or other similar type materials. This material is to be applied to the roadway for the sole purpose se of preventing further accidents due to lubricating fluids, grease, etc that is left on the road surface to an accident or vehicle malfunction. Regular rotation wrecker operators are not required to perform environmental type clean-ups at the accident scene, unless the company has received special training and possess the proper equipment to do so.

Rule 6: Rotation wreckers must respond to the scene of a call within thirty (30) minutes from the time they are contacted by either Cumberland County dispatch or State Highway Patrol dispatch. If the rotation wrecker fails to respond within the prescribed time, the officer on the scene may request the next rotation wrecker to be called and the original wrecker will be turned back.

Rule 7: Rotation wreckers may refuse calls, however if they do, the call will be considered their rotation call and the next rotation wrecker operator will be called.

Rule 8: Wrecker safety and service equipment shall be subject to inspection by the wrecker inspector or his designee as deemed necessary to insure compliance with the County Code.

Rule 9: Rotation wrecker operators will maintain a file of all paperwork for rotation calls, and will at a minimum consist of billing paperwork, name and address of the owner if known, and dates and times the vehicle was picked up by the owner of the vehicle. This file will be subject to inspection by the wrecker inspector if deemed necessary to insure compliance with the County Code or to investigate complaints.

Rule 10: There will be a list maintained for "large wreckers" for the purpose of handling large truck wrecks, disabled trucks, etc. In order to be placed on the Large Wrecker list an operator must meet the following specifications:

- A. A towing company must meet all requirements for the regular rotation plus each towing company must have a minimum of two (2) large wreckers. One of the large wreckers must be equipped with tandem axles and be equipped with a wrecker apparatus rated at a

minimum of twenty-five (25) tons by the manufacturer. This wrecker must have a minimum of one hundred twenty-five (125) feet of cable measuring 5/8 inch on each winch.

- B. The additional large wreckers can be a single or tandem axle truck. A single axle wrecker must have a minimum cab to axle length of one hundred two inches (102”) in a wrecker apparatus rated at a minimum of (15) fifteen tons by the manufacturer. All additional wreckers must have a minimum of one hundred twenty-five feet of cable ½ inch in diameter on each winch.
- C. The “large wreckers” will be equipped with all service equipment listed in Rule 2, with the exception of dollies.
- D. All “large wreckers” on the Large Rotation list must be equipped with air brakes and air hookup to provide air to the vehicle being towed including air for trailer brakes and trailer(s) in tow.
- E. Each Operator on the large wrecker rotation list must have a minimum of one large wrecker equipped with an under lift rated at a minimum of twelve thousand (12,000) pounds lift when extended seventy-five (75) inches as rated by the manufacturer.

Rule 11: An operator on the rotation list under the County Code, may respond to rotation calls only with a wrecker that has been inspected and displaying a current permit of inspection by the Wrecker Inspector. If a company replaces or purchases a different vehicle, it must be inspected prior to being used to respond to County or State rotation calls.

Rule 12: Operators shall store vehicles at their designated storage yards unless the wrecker and tow service is instructed to carry the vehicle to another location. The wrecker inspector must be notified thirty (30) days prior to an operator changing its storage lot location. The storage lot shall be inspected and approved by the wrecker inspector prior to any rotation wrecker calls being stored at a location other than that which was previously designated by the wrecker or tow service company.

Rule 13: If an operator is arrested for violation of criminal statutes regarding the possession, sale, transportation or use of narcotics, that wrecker and tow service company will be suspended or revoked from the rotation list as follows:

- A. For a first offense, suspension for a period of ninety (90).
- B. For a second offense within five (5) years of the date of the first violation, revocation.
- C. If the operator is arrested for violation of trafficking in narcotics the company will be immediately revoked from the rotation list.
- D. If an employee, while operating a wrecker operating under this article commits any offenses listed above, the same suspension or revocation shall apply.

Rule 14: Companies on the rotation list will only have one (1) phone number listed with the dispatchers. That number will be called by the dispatchers. Dispatchers will let the phone ring for a minimum of five rings. If there is no answer, the company will lose that rotation call and the next company on rotation will be called.

Rule 15: A wrecker company will receive a make up call or be placed back on top of the rotation list, only under the following conditions:

A. Circumstances beyond the control of the requesting agency.

B. At the direction of the wrecker inspector.

Rule 16: All complaints received from an operator shall be in writing and will be addressed to:

Sheriff Earl Butler
Attn: Wrecker Inspector
131 Dick Street
Fayetteville, NC 28301

If the complaint concerns the actions of a Deputy Sheriff, the complaint can be made to the supervisor in the Office of Professional Standards at phone number 677-5419 or mailed to:

Sheriff Earl Butler
Office of Professional Standards
131 Dick Street
Fayetteville, NC 28301

Rule 17: Operators must respond to each rotation call only with the correct rotation tow truck from the rotation company called. The operator cannot have another towing company recover or tow the rotation call for them. Companies that attempt to have another company pick up a rotation call, will be turned back and will lose that rotation call. Operators may receive assistance on a recovery from another towing company, but the assisting company must use tow trucks approved as rotation wreckers by the County or Highway Patrol. The operator given the call must be involved one hundred percent (100%) in the recovery and only use another company if needed.

Rule 18: Operators will not call the Communications Departments to determine their current standing on the rotation wrecker list.

Rule 19: If an operator on suspension from the wrecker list is called in error by the communications department, that company will refuse the call and notify the wrecker inspector. Response to a rotation wrecker call for service while on suspension will be considered a secondary violation.

Rule 20: Complaints of overcharge will be investigated by the wrecker inspector when those complaints are received in writing from citizens. Upon completion of the investigation the findings will be provided to the complainant and the operator (citizen and wrecker company). If

the complaint is registered by another rotation wrecker company, the operator will be called upon to testify at any Wrecker Review Board Hearing.

Rule 21: Owners will be allowed only a maximum of two companies on the rotation wrecker list. If the business has two (2) companies at the same location, each business must maintain a separate office with a separate public entrance and a separate storage lot with separate street access.

Rule 22: Companies wishing to remain on the County and Highway Patrol rotation must pay their renewal fees by January 1st of each year. Companies which are delinquent in the payment of renewal fees will be dropped from the rotation after thirty (30) days. Companies paying after they have been dropped will remain off the rotation for an additional thirty (30) days.

Rule 23: Companies failing to pay dispatch fees after thirty (30) days will be removed from the County and Highway Patrol rotation until the delinquent fees are paid in full.

Rule 24: Upon request or demand, the rotation wrecker companies will return personal property stored in or with the vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid. Personal property for the purposes of this provision includes any goods, wares, freight or any other property not requiring tools to remove from the vehicle.

Rule 25: The wrecker companies shall tow disabled vehicles to any destination within the county requested by the vehicle owner or other person with apparent authority, after financial obligations have been finalized by the owner or other person with apparent authority.

FEE SCHEDULE FOR ROTATION WRECKERS

<u>TYPE OF SERVICE</u>	<u>AMOUNT</u>
Towing service call, 24-Hours a Day	\$175.00
Use of dollies	\$ 75.00
Labor charge for recovery	\$180.00 per hour
Use of Speedi-Dry or other absorbent	\$25.00
Recharge Fire Extinguisher	\$25.00
Vehicle storage inside building or under shelter	\$35.00 per day
Vehicle storage outside	\$25.00 per day
Administrative fee	\$40.00
Tow mileage fee	\$2.00 per mile

Wait charge \$1.50 per minute
(Does not include hook-up. Time starts 10 minutes after hook-up complete)

After hours charge (Access to lot after hours) \$75.00

FEE CHARGED TO WRECKER AND TOWING SERVICE

<u>FEE FOR:</u>	<u>AMOUNT</u>
Initial application and inspection	\$100.00 Plus \$100.00 per wrecker
Annual inspection and license renewal	\$50.00 Plus \$100.00 per wrecker
Administrative / Dispatch Fee Paid by towing customer to Cumberland County (Collected by Towing Firm on each rotation call)	\$15.00

L. Approval of Ordinance Assessing Property for the Costs of Demolition:

- 1) Case Number: MH 6398-2011
Property Owners: Mary E. Morris Heirs, c/o Douglas C. Morris
Property Location: 1103 Riverside Circle, Spring Lake, NC
Parcel Identification Number: 9592-66-5280

ORDINANCE ASSESSING PROPERTY FOR THE COSTS
OF DEMOLITION OF A STRUCTURE PURSUANT TO
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY
CASE NUMBER: MH6398-2011

PROPERTY OWNER: MARY E. MORRIS HEIRS C/O DOUGLAS C. MORRIS

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on November 21, 2011, enacted an ordinance directing the demolition by the owner(s) of the structure(s) Mary E. Morris Heirs, c/o Douglas C. Morris, located at 1103 Riverside Circle, Spring Lake, NC, PIN: 9592-66-5280, said ordinance being recorded in Book 8775, page 118, of the Cumberland County Registry of Deeds;

WHEREAS, the time within which said demolition was to be performed has expired and the owner(s) failed to comply with the ordinance within such period; and

WHEREAS, the said ordinance further directed the Minimum Housing Inspector to effect the demolition of the structure(s) in the event the owner(s) failed to do so;

WHEREAS, the Minimum Housing Inspector has reported to this Board that:

- (1) Said work had been accomplished.

- (2) The cost of such work was \$2,500.00.
- (3) There were no salable materials resulting from said work.

NOW THEREFORE, the above report coming on to be considered and the Board of County Commissioners finding it to be a true and accurate accounting, the said Board hereby ORDAINS:

(1) That the real property on which the work was performed be, and it hereby is, assessed in the amount of \$2,500.00, said sum being the unpaid balance of the cost of the work set forth in the Inspector's Report;

(2) That as provided in the Ordinance of Cumberland County dated November 21, 2011, and in Section 160A-443(6) of the General Statutes of North Carolina, the amount of the foregoing assessment be, and hereby does constitute, a lien against the real property upon which such costs were incurred, such property being more particularly described as follows:

The structure and premises located at 1103 Riverside Circle, Spring Lake, NC, as described in Deed Book 2046, page 251, of the Cumberland County Registry and identified in County tax records as PIN 9592-66-5280.

(3) That as further provided in Section 160A-443(6) of the General Statutes of North Carolina, such lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of said General Statutes;

(4) That one copy of this resolution be filed in the minutes of this Board of County Commissioners and another copy certified and delivered by the Clerk as a charge to the Tax Collector, who shall thereupon enter the amount of the assessment set forth above upon the Tax Books of the County as a special assessment against the above described property.

M. Budget Revisions:

(1) Health

- a. Community Transformation Grant - Revision in the amount of \$183,920 to budget a Community Transformation Grant for the purpose of creating a healthier community and to establish a Lead Community Coordinator position and an Accounting Tech I part-time position. (B12-262) Funding Source – Grant
- b. Employee Clinic - Revision in the amount of \$54,216 to appropriate Group Insurance Fund Fund Balance to establish an Employee Clinic to include three new positions; one Physician Extender II, one Public Health Nurse I and one Medical Office Assistant. (B12-265) Funding Source – Group Insurance Fund Balance
- c. Employee Pharmacy Program – Revision in the amount of \$45,759 to appropriate Group Insurance Fund Balance to establish an Employee

Pharmacy to include two new positions; one Pharmacist and one Pharmacy Tech. (B12-264) Funding Source – Group Insurance Fund Balance

- d. Jail Health – Revision in the amount of \$140,000 to appropriate fund balance for additional expenditures anticipated for the remainder of the fiscal year. (B12-257) – Funding Source – General Fund Fund Balance

(2) Tax Administration

Revision in the amount of \$92,324 to appropriate fund balance to pay Tax Management Association for tax audits per March 26, 1997 agreement. (B12-255) Funding Source – General Fund Fund Balance

(3) NC Controlled Substance Tax

Revision in the amount of \$85,000 to appropriate NC Controlled Substance Tax fund balance to purchase a large capacity commercial freezer and for other operating. (B12-261) Funding Source – NC Controlled Substance Tax Fund Balance

(4) Federal Forfeiture – Justice

Revision in the amount of \$263,100 to appropriate Federal Forfeiture fund balance to purchase video equipment, body armor and shot guns. (B12-260) Funding Source – Federal Forfeiture Fund Balance

(5) Juvenile Crime Prevention Programs

Revision in the amount of \$121,757 to recognize new grant funding (\$128,638), reduce State funding (\$19,262) and appropriate fund balance (\$12,381) for grant matches. (B12-253) Funding Source – Grant, State, Fund Balance Appropriated

(6) Social Services

Revision in the amount of \$1,049,249 to recognize additional Federal funding for the Energy and Crisis Intervention Programs. (B12-251) Funding Source – Federal

(7) School Capital Outlay

- a. Category I – Revision in the amount of \$2,187,400 to appropriate sales tax fund balance to budget additional capital outlay buildings for huts,

roofing, paving, and other renovations. (B12-247) Funding Source – Sales Tax Fund Balance Appropriated

- b. Category II – Revision in the amount of \$379,000 to appropriate sales tax fund balance to budget additional capital outlay equipment for furniture, playground equipment, art education equipment and bus cameras. (B12-247A) Funding Source – Sales Tax Fund Balance Appropriated
- c. Category III – Revision in the amount of \$86,000 to appropriate sales tax fund balance to budget additional capital outlay vehicles for activity buses. (B12-247B) Funding Source – Sales Tax Fund Balance Appropriated

(8) General Government Other/Detention Center Expansion Project

Revision to reallocate budgeted reserve funds to transfer \$500,000 to the Detention Center Capital Project. The reservation of these funds were included in the FY2012 Adopted Budget. (B12-256 and B12-256A) Funding Source – Reallocation of Budgeted Expenditures.

MOTION: Commissioner King moved to approve all consent items 2.A. – 2.M.(8).
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

3. Public Hearings

Mr. Martin explained the Board of Commissioners' procedures for public hearings and advised that Cases P12-05 and P12-09 remained uncontested.

Uncontested Cases

Rezoning

- A. Case P12-05: Rezoning of 2.56+/- acres from A1 Agricultural to R40A Residential or to a more restrictive zoning district, located at 6228 Kennel Road, submitted by Listen Owen and Pamela H. Lockamy (owners).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the February 21, 2012 meeting voted to recommend approval of the R40A Rural Residential district.

- B. Case P12-09: Rezoning of .42+/- acre from RR Rural Residential to C1(P) Planned Local Business or to a more restrictive zoning district, located at 4427 Clinton Road, submitted by Jing Mester on behalf of Right Star Properties LLC. (owner).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the February 21, 2012 meeting voted to recommend approval of the C1(P) Planned Local Business district.

These are the duly advertised/noticed public hearings set for this date and time. Chairman Faircloth opened the public hearings for Cases P12-05 and P12-09.

The Clerk to the Board advised there were no speakers in opposition to Cases P12-05 and P12-09.

Chairman Faircloth closed the public hearings.

MOTION: Commissioner Edge moved to follow the recommendations of the Cumberland County Joint Planning Board for Cases P12-05 and P12-09.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

Contested Conditional Zoning Case

C. CASE WITHDRAWN - Case P12-03: Rezoning 116.77+/- acres from R40 Residential to R20 Residential or to a more restrictive zoning district; located on the south side of SR 1730 (Underwood Road), northwest of SR 1728 (Middle Road); submitted by John Koenig on behalf of Estate Builders LLC. (owner).

Contested Rezoning Case

D. Case P12-07: Rezoning of 2.00+/- acres from A1 Agricultural to C(P) Planned Commercial or to a more restrictive zoning district, located at 2112 River Road, submitted by Nathaniel L. Gienger (owner).

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the February 21, 2012 meeting voted to recommend denial of the RR Rural Residential district. Note: The applicant voluntarily amended the request from C(P) Planned Commercial to RR Rural Residential.

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 water is provided by Eastover Sanitary District and the property is on septic. Mr. Lloyd explained the request was originally advertised for C(P) Planned Commercial; however, the applicant changed the request to RR Rural Residential which would allow indoor recreation.

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:

Nate Gienger – Mr. Gienger appeared in favor and referenced a letter sent to the Board in which he stated his intentions to return to the Cumberland County Joint Planning Board and change his request from RR Rural Residential to a conditional zoning permit in order to alleviate the concerns of the neighborhood.

Chairman Faircloth asked whether the Board could act on Mr. Gienger's request. Mr. Lloyd stated the Board could send the case back to the Cumberland County Joint Planning Board to hear again as a conditional zoning request, and the Cumberland County Joint Planning Board could then make a recommendation back to the Board.

Commissioner Keefe asked whether the issue had to do with indoor versus outdoor recreation. Mr. Lloyd stated outdoor recreation is allowed under the current zoning of A1 and the zoning request is to allow for indoor recreation. Mr. Lloyd explained the request was for RR Rural Residential and there was opposition by Cumberland County Joint Planning Board both to the use and to the lot size under that zoning district.

Commissioner Keefe asked whether the Cumberland County Joint Planning Board considered a conditional zoning permit for this case. Mr. Lloyd stated the Cumberland County Joint Planning Board asked those opposed to the rezoning whether a conditional zoning permit would alleviate their concerns; those in opposition said it would not alleviate their concerns. Mr. Lloyd also stated should the Cumberland County Joint Planning Board wish to consider conditional zoning, they customarily initiate that discussion themselves; however, there was no discussion of conditional zoning at the February 21, 2012 meeting as the issue was dropped and the vote was taken.

Chairman Faircloth recognized Mr. Gienger for his remaining time:

Mr. Gienger stated one of his neighbors was unopposed to the rezoning and two had expressed their neutrality. Mr. Gienger stated his request for conditional zoning was for the specific limited use as an indoor paintball field which should not cause problems for the neighbors. Mr. Gienger stated should he cease business, the property would then revert back to A1 district uses.

Lee Warren – Mr. Warren appeared in opposition and stated the area is a wonderful quiet place which is why people choose to live there. Mr. Warren read a statement from Morgan Johnson, Chairman of the Eastover Sanitary District, in opposition to the request and stated the applicant's request is in violation of the Eastover Land Use Plan. Mr. Warren stated he felt the Cumberland County Joint Planning Board had already discussed conditional zoning at their February 21, 2012 meeting and had they favored the request, they would have indicated it at that time. Mr. Warren stated on one occasion weapons

were fired on the subject property. Mr. Warren distributed a picture of a gunshot hole in the side of a neighbor's house.

Commissioner Keefe asked Mr. Warren if residents were comfortable with the existing outdoor facility. Mr. Warren stated there are four ten-acre lots currently for sale and the main concern is about how those lots would be used were a conditional zoning permit to be approved.

Stuart Williams – Mr. Williams appeared in opposition and stated he did not want to see any change from the current A1 Agricultural zoning. Mr. Williams stated he concurred with the statements made by Lee Warren. Mr. Williams also stated the concern is how a conditional zoning permit will affect the zoning and use of the other parcels in the River Road neighborhood.

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

Mr. Lloyd responded to additional questions

MOTION: Commissioner Melvin moved to deny the request for RR Rural Residential district.
SECOND: Commissioner King
VOTE: UNANIMOUS (7-0)

Subdivision Ordinance Text Amendment

E. Case P12-08: Revision and amendment to the Cumberland County Subdivision Ordinance, amending Article XXIII, Improvement and Design Standards, Section 2304. Streets, sub-section B. Public Streets, 4. Curbs and Gutters; and updating the Table of Contents as appropriate.

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the February 21, 2012 meeting voted to recommend approval of the text amendment.

Mr. Lloyd stated curb and gutter regulations have been a part of the subdivision ordinance since the 1980's and are no longer needed because the North Carolina Department of Transportation (NCDOT) now requires curbs and gutters. Mr. Lloyd further stated the only streets not requiring curbs and gutters would be private streets which would be regulated by best management practices under the Department of Environmental and Natural Resources (DENR). Mr. Lloyd stated the Municipal Influence Area (MIA) agreement specifies whichever is the stricter, the city or NCDOT, and NCDOT is stricter.

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 for approval of the text amendment.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

Minimum Housing Code Enforcement

F. Case Number: MH 6586-2011
Property Owner: Crysandra Inc., Irrevocable Trust
Property Location: 3134 Duck Pond Road, Linden, NC
Parcel Identification Number: 0553-87-7716

The Clerk to the Board administered an oath to George Hatcher, Code Enforcement Officer for the County of Cumberland Inspection Department, who provided information to the Board of Commissioners regarding case number MH 6586-2011.

**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 6586-2011.

Property Owner: Crysandra Inc., Irrevocable Trust
Home Owner: Crysandra Inc., Irrevocable Trust
Property Address: 3134 Duck Pond Road, Linden, NC
Tax Parcel Identification Number: 0553-87-7716

SYNOPSIS: This property was inspected on 9/15/2011. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 11/16/2011. Mack W. Gwinn 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 2/16/2012. 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 3/6/2012, no corrective action had 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 \$50,000.00. The Assessor for Cumberland County has the structure presently valued at \$2,770.00.

RECOMMENDATION: IT IS THE RECOMMENDATION OF THE PLANNING AND 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 Edge 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 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 Council

VOTE: UNANIMOUS (7-0)

Items of Business

4. Nominations to Boards and Committees

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

Commissioner Council nominated David McCune, Sr.

5. Appointments to Boards and Committees

A. Equalization & Review Board – Appointment of Officers

<u>Chairman:</u>	Kathy Olsen
<u>First Vice Chairman:</u>	Curtis Alexander
<u>Second Vice Chairman:</u>	Steven Parsons

MOTION: Commissioner Keefe moved to appoint by acclamation Kathy Olsen as Chairman, Curtis Alexander as First Vice Chairman and Steven Parsons as Second Vice Chairman of the Equalization and Review Board.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

Chairman Faircloth asked whether the pursuing closed sessions were in accordance with the North Carolina General Statutes. Rick Moorefield, County Attorney, stated one of the economic development matters is certainly for closed session and if there is no report on the shell building in terms of a prospective sale, then that would be a matter for open session. Commissioner Evans stated he also had an economic development issue regarding the postal service which he would like to add to the agenda for discussion. Mr. Moorefield advised Commissioner Evans he would need the unanimous consent of the Board of Commissioners to add an item to the agenda. Chairman Faircloth asked Commissioner Evans to confer with the county attorney as to whether discussion of his item would be a matter for open or closed session.

Doug Peters, Fayetteville/Cumberland County Chamber of Commerce President, stated the Fayetteville/Cumberland County Chamber of Commerce has been pursuing a potential buyer for the shell building and the prospective buyer is now looking at another opportunity in another community rather than the shell building. Mr. Peters stated the note for the construction loan has been in place for ten years and the consortium of banks that has renewed the note eight times is now requiring a principal pay down in the amount of \$6,400 a month. Mr. Peters stated the Fayetteville/Cumberland County Chamber of Commerce inherited this debt and respectfully requests that the Board of Commissioners consider the principal payments in addition to the interest payments until such time as the building is sold or disposed of otherwise. Mr. Peters stated the term is for a fifteen year amortization with a two year note that will be refinanced in two years. Questions and discussion followed.

Mr. Peters stated he had the original loan document as signed by the Chair and Vice Chair of the FAEDC. Mr. Moorefield confirmed the loan was fully documented and the borrower was the FAEDC and its successor the Fayetteville/Cumberland County Chamber of Commerce. Mr. Moorefield stated the county was asked to provide coverage of the interest payments after a two-year period and the Board of Commissioners voted affirmatively to do so. Mr. Moorefield stated that has been the extent of the county's involvement.

Chairman Faircloth asked whether the FAEDC purchased the property on which the shell building was constructed. Mr. Martin stated the county transferred ownership of the property to the FAEDC to use as collateral for the loan.

Mr. Moorefield stated borrowing money is the most regulated aspect county government can engage in and the county can not borrow money for just any purpose. Mr. Moorefield stated a resolution needs to occur well in advance of the expiration of the sixty day extension and be a planned event because the county can not serve as a surety and can not agree to just make principal payments. Mr. Moorefield further stated if the ultimate decision is for the county to absorb the principal payments and leave the property titled to the Fayetteville/Cumberland County Chamber of Commerce, this will have to be accomplished by a direct contribution to the Fayetteville/Cumberland County Chamber of Commerce. Mr. Moorefield stated the county does not have legal authority to pay the debt for someone else and the payment will have to be handled consistent with the fiscal control act. Mr. Peters stated another option would be for the Fayetteville/Cumberland County Chamber of Commerce to transfer title to the county for the building and thirty-four acres. Mr. Moorefield advised giving the property to the bank should not be considered as an option.

Mr. Peters noted the loan matured on February 13, 2012 and the sixty day extension would end on April 13, 2012.

MOTION: Commissioner Melvin moved to table the matter until the next meeting so the Board can receive advice from the county attorney and county manager as far as further action to be taken.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

The Board recessed for five minutes for Commissioner Evans to confer with the county attorney as to whether discussion of his economic development item would be a matter for open or closed session.

- 6. Closed Session
 - A. Economic Development Matter(s)
Pursuant to NCGS 143-318.11(a)(4)
 - B. Attorney-Client Matter Pursuant to
NCGS 143-318.11(a)(3)
 - C. Personnel Matters Pursuant to
NCGS 143-318.11(a)(6)

MOTION: Commissioner Edge moved to go into closed session for economic development matters pursuant to NCGS 143-318.11(a)(4), for an attorney-client matter pursuant to NCGS 143-318.11(a)(3) and for personnel matters pursuant to NCGS 143-318.11(a)(6).

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to reconvene in open session.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to adjourn.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

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

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board