

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 19, 2012 – 6:45 PM  
117 DICK STREET, 1<sup>ST</sup> 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, Chief Public Information Officer  
Howard Abner, Assistant Finance Director  
Tom Lloyd, Planning and Inspections Director  
Buck Wilson, Public Health Director  
Jeffrey Brown, County Engineer  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Chairman Faircloth called the meeting to order.

INVOCATION

Commissioner King provided the invocation followed by the Pledge of Allegiance to the American flag led by Alannah McMillan who attends Ed Baldwin Elementary School.

Recognition of the Cumberland County Public Library and Information Center Award of the 2012 National Medal for Museum and Library Service

Commissioner Council recognized Jody Risacher, Cumberland County Library and Information Center Director, and Willie Wright, Chairman of the Library Board of Trustees, and Library Board of Trustee members, and stated the Cumberland County Public Library recently won the nation's highest honor, the National Medal for Museum and Library Service, which celebrates libraries and museums that make a difference for individuals, families and communities. Commissioner Council stated Cumberland County was one of five libraries selected to receive the National Medal from nominations received from across the country. Commissioner Council also stated on November 14, 2012, the Institute for Museum and Library Services presented Ms. Risacher and Mr. Wright with the medal at a ceremony in the White House. Commissioner Council further

stated the medal is awarded to institutions that demonstrate innovative approaches to public service, exceeding the expected levels of community outreach. Ms. Risacher thanked the Board of Commissioners and county administration for their support of the library and stated the award belongs to the entire community. Ms. Risacher extended an invitation to attend the public reception at the Headquarters Library on November 28, 2012 from 4:00 to 6:00 p.m.

**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:

Stacy Carr – Ms. Carr did not appear when her name was called.

Mable Williams – Ms. Williams stated she was present to appeal the renaming of Garner Street to Jacob Street. Ms. Williams stated she obtained thirteen signatures in favor of keeping the name Garner Street although the newspaper reported there were only three in favor. Ms. Williams also stated she gave their signatures to the supervisor in the county office to be sure they would be counted because she knew she would not be able to attend the Board of Commissioners' meeting during which the name would be decided. Ms. Williams questioned why those signatures were not taken into account.

Regina McLean – Ms. McLean thanked the Board of Commissioners and county administration for their support of her situation after she reported to them that her power and water had been wrongly shut off by PWC. Ms. McLean stated PWC refused to accept payment of the bill and as a result code enforcement forced her to leave the dwelling in which she resided and she has been homeless for three weeks. Ms. McLean stated because of a "no contact" order for which there is no probable cause, she is unable to go the PWC or the City of Fayetteville.

Kay L. Lewis – Ms. Lewis stated she serves on the Mental Health Auxiliary Board. Ms. Lewis described services provided by the Mental Health Auxiliary and stated without these services, the consumers would be homeless and without food, medication and transportation to get to their appointments. Ms. Lewis asked the Board of Commissioners to reconsider their funding of this program utilizing the fund balance.

William T. Palmer – Mr. Palmer stated he would like for the Board to consider using the mental health fund balance to fund programs that will not be funded by the Alliance. Mr. Palmer stated the Board can direct Mental Health to contract with providers for the next three to four years which will save the county money. Mr. Palmer stated this will enable current programs to remain in place during the adjustment to the Alliance's operations and will reduce the amount of fund balance transferred to the Alliance.

James Martin, County Manager, advised the public hearing for Case P12-58 has been deferred to the December 17, 2012 meeting at the request of the petitioner and there is no need for a closed session for economic development pursuant to NCGS § 143-318.11(a)(4) under Item 9.A.

1. Approval of Agenda

MOTION: Commissioner King moved to approve the agenda consistent with the advisement of the county manager.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

2. Consent Agenda

Commissioner Evans asked that Items 2.B. and 2.D. be pulled for separate discussion and action.

- A. Approval of minutes for the November 5, 2012 regular meeting and the October 29, 2012 special joint meeting with the Mental Health Authority
- B. PULLED FOR SEPARATE DISCUSSION AND ACTION AS RECORDED BELOW.
- C. Report on Cedar Creek Pilot Transportation Project

The Cedar Creek van service started on October 15, 2012, as scheduled, after some initial problem with the pick-up and drop off location. Originally scheduled to start and end at the Short Stop located at the intersection of Cedar Creek and Tabor Church Roads, the location was changed to Cedar Creek Baptist Church located approximately 200 feet from the Short Stop. The original pick up times were 5:00 am and 6:00 am, but after a request by area residents, the morning pick up times were moved up one hour to 6:00 am and 7:00 am. The numbers below reflect this change. Reported ridership is as follows:

October 15 through October 30

5:00 am – 7 total riders / 12 days = .58 daily ridership

6:00 am – 76 total riders / 12 days = 6.3 daily ridership

October 31 (new times)

6:00 am – 3 riders / 1 day = 3 daily ridership

7:00 am – 2 riders / 1 day = 2 daily ridership

The evening times have remained constant from October 15 through October 31:

6:00 pm – 56 riders / 13 days = 4.3 daily ridership

7:00 pm – 5 riders / 13 days = .385 daily ridership

Accuracy of the reported ridership data must be verified by staff and may be adjusted.

D. PULLED FOR SEPARATE DISCUSSION AND ACTION AS RECORDED BELOW.

E. Approval of Consideration of Declaration of Surplus County Property and Authorization to Accept Insurance Settlements

BACKGROUND:

DATE OF ACCIDENT	July 31, 2012	September 25, 2012
VEHICLE	2011 Ford Crown Victoria	2011 Toyota Camry
VIN	2FABP7BV6BX138366	4T1BB3EK2BU131520
FLEET #	FL492	FL464
DEPARTMENT	Sheriff's Office	Sheriff's Office
SETTLEMENT OFFER	\$16,630.92	\$19,450.00
INSURANCE COMPANY	Travelers	Universal

DATE OF ACCIDENT	October 2, 2012	October 11, 2012
VEHICLE	2010 Ford Crown Victoria	2007 Ford Expedition
VIN	2FABP7BV1AX117259	1FMFU15527LA67826
FLEET #	FL432	FL352
DEPARTMENT	Sheriff's Office	Sheriff's Office
SETTLEMENT OFFER	\$13,049.61	\$11,374.83
INSURANCE COMPANY	Travelers	Travelers

These are total loss settlement offers.

RECOMMENDATION/PROPOSED ACTION:

Management recommends that the Board of Commissioners:

1. declare the vehicles described above as surplus
2. authorize the Risk Manager to accept the settlement offers by the insurance companies
3. allow Travelers and Universal Insurance to take possession of the wrecked (surplus) vehicles.

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

East Ridge Subdivision: East Gate St.  
Crosshill St.  
High St.

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):

East Ridge Subdivision: Eastgate Street, Crosshill Street, High Street

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.

**G. Approval of Report and Recommendation of the Cumberland County Facilities Committee:**

- 1) Demolition of Former Legal Aid Building

**BACKGROUND:**

At the October Facilities Committee Meeting, the status of the Legal Aid building was brought up by one of the committee members. At the time, it was unsure what action, if any, had been taken by the Board concerning the building. The committee requested that this become an agenda item for the November meeting.

The following information was presented at the November Facilities Committee Meeting. In reviewing previous meeting minutes, it was discovered that at the December 21, 2009 Commissioners Meeting, the Board approved the following motion unanimously; approve to instruct staff to move forward with demolition of the Legal Aid Building and conversion of the property into paved parking. Unfortunately, based on the fact that other projects were given higher priority, this building has not been demolished. However, since this project was brought to my attention, the County has acquired the services of ECS Carolinas, LLP to complete an asbestos survey and lead paint assessment of the entire building.

This testing was completed on November 6<sup>th</sup> and we are awaiting laboratory results at this time. Once the lab results are received, the Engineering Division will move forward with completing the request for proposal and specifications necessary to secure a contractor to demolish the structure.

**RECOMMENDATION/PROPOSED ACTION:**

Once the demolition of the building has been completed, then a proposed layout of additional parking spaces will be brought before the Facilities Committee for approval.

**H. Approval of Report and Recommendation of the Cumberland County Policy Committee:**

- 1) Print Management Policy

**BACKGROUND:**

Attached you will find a copy of the proposed print management policy which was approved by the Policy Committee on November 1, 2012. The purpose of this policy is to implement a uniform and consistent approach to allocation, access and usage of

printing devices. The intent is to reduce costs, create a sustainable strategy and improve business efficiencies.

While printing is necessary in certain circumstances, it should be limited and carried out in the most efficient manner. Multi-function devices (MFD's) are more cost effective to operate than printers therefore the provision of printers must be based on the business need and parameters outlined in the attached policy. This policy encourages the utilization of electronic storage means where possible.

**RECOMMENDATION/PROPOSED ACTION:**

Approve the attached Print Management Policy.

**1.0 PURPOSE**

The purpose of this policy is to implement a uniform and consistent approach to the allocation, access and usage of printing devices for business purposes with the intent of reducing costs, creating a sustainable strategy, and improve business efficiencies.

**2.0 BACKGROUND**

Printing documents and other materials is an essential business function for maintaining records, reporting and other communication requirements. While printing is necessary in certain circumstances, it should be limited and carried out in an efficient manner. Multi-function devices (MFDs) are more cost effective to operate than printers; therefore, the provision of printers must be based on business need. All staff should be encouraged to consider the need to print and should consider using or storing electronic copies where possible.

**3.0 SCOPE**

This policy applies to all employees of Cumberland County. This policy covers all printing devices and multi-functional devices (MFDs) owned or utilized by Cumberland County.

**4.0 POLICY**

4.1 Requests for printer approval will only be allocated to an individual or work group in exceptional circumstances, based on a business need substantiated and recommended by the Department Head/Director, justified by the respective IT Department, reviewed by County IT and approved by County Management.

4.2 The procurement card program guidelines prohibit the use of County credit cards for the purchase of printers and printer supplies.

**5.0 ACCESS AND USAGE**

5.1 Printers should be used for business purposes only. Only the necessary pages in the document are to be printed and double sided printing is to occur where possible.

5.2 Network printers will be made available to staff within close proximity to their work area.

5.3 A MFD should be used in preference to printers when producing a large number of copies. Substantial copies exceeding a volume of 500 should be directed to the County Print Shop.

5.4 Black-and-white prints should be made in preference to color prints.

5.5 The IT Department can work with the unit to create pass codes to release confidential information routed to MFDs upon request.

5.6 All MFDs have “scan to email” and “scan to folder” functions available which may limit hardcopies and manual distribution.

## **6.0 COLOR PRINTS**

6.1 Access to color prints will be allocated to staff identified by the Department Head/Director to process work related color print jobs.

6.2 MFDs with color copying/printing capability will be set to print in black-and-white only, with the ability to change the default setting for color printing allocated to the identified staff through an access code.

6.3 Documents, when deemed necessary, can be printed by the identified staff in color. In these circumstances, the following should occur:

- Only the necessary pages in the document be printed in color
- Color printing only be utilized where it is required to convey important information that may not be captured in black and white.

## **7.0 PROCUREMENT**

7.1 All printers must be purchased in accordance with Cumberland County Finance guidelines.

7.2 Requests for the purchase and allocation of printers will require the completion of a printer request form.

7.3 A printer request form should be completed by the requesting Department Head/Director which will substantiate the business purpose for the request. The completed form should then be provided to the respective IT department for

justification prior to submission to County IS for review and to County Management for approval.

## **8.0 IMPLEMENTATION**

Existing Personal/Desktop printers may be continued to be used until they no longer work or existing printer supplies such as toner are depleted. Cumberland County Information Services and Departmental Information Services Department will audit the location and volume of all existing printers and make recommendations based on the criteria outlined in the policy. Department Heads and Directors are responsible for ensuring compliance within the provisions of this policy.

### **2) Public Use of Historic Courtroom Policy**

#### **BACKGROUND:**

At the October 4, 2012 meeting of the Policy Committee, Commissioner Keefe requested that the Policy Committee consider a policy for the public use of the courtroom in the Historic Courthouse. Commissioner Keefe directed the county attorney to draft a policy which did not permit religious and political uses and included a reasonable fee. The county attorney considered the following issues in preparing the draft:

- the availability of privately-owned meeting facilities, such as the Sky Room on Hay Street only two blocks from the Historic Courthouse, the Pate Room at the library, and the meeting facilities available at the Crown Complex
- the need to protect the courtroom from potential damage
- the need for security during any function or event;
- the need to secure the building after any function or event

The proposed minimum and additional fees are based on the cost of providing two (2) deputies in an overtime status with a minimal charge for utilities and janitorial services. The proposed policy makes the courtroom available to all uses except for political and religious purposes, which are defined in the policy.

At its November 1, 2012 meeting the Policy Committee considered a proposed draft. The Policy Committee voted to recommend the following policy to the Board of Commissioners:

#### **1.0 PURPOSE**

The purpose of this policy is to establish the conditions under which the courtroom in the Historic Courthouse may be used by groups, organizations and agencies other than county government. This policy is intended to make this historically significant facility available for the use of the citizens of Cumberland County, to which it belongs.

#### **2.0 SCOPE**

This policy shall apply to the use of the courtroom in the Historic Courthouse for any purpose by anyone other than county government or such other governmental agencies as the county may allow. Only the courtroom may be used. No other floors or portions of the Historic Courthouse shall be available for public use.

### 3.0 STATEMENT OF THE POLICY

- 31 This policy shall be administered by a county employee whom the county manager shall designate as the Facility Manager for the Historic Courthouse.
- 32 The facility may not be used for any political or religious purpose. For the purposes of this policy a political purpose is any purpose, function or event that is sponsored by, on behalf of, or against any candidate for elected office, any political party, or any political action committee. For the purposes of this policy a religious purpose is any purpose, function or event that is intended to promote the beliefs, ideology or tenets of a particular religion, religious group or religious sect.
- 33 The facility may only be used for purposes, functions or events that are available to the general public, with or without an admission charge.
- 34 Any group, organization or agency wishing to use the facility shall make a written application to the facility manager at least thirty (30) days in advance of the requested use in such form as may be prescribed by the facility manager.
- 35 The facility shall only be made available during such times as it is not being used for government purposes by the county or such other governmental agencies as the county may allow.
- 36 No foods or beverages may be dispensed or consumed within the facility at any function or event permitted under this policy.
- 37 No products, goods or services intended for off-premises consumption shall be sold or distributed at any function or event permitted under this policy.
- 38 No materials deemed to be hazardous by the facility manager, in consultation with the Director of Emergency Management and the County Fire Marshal, shall be allowed in the facility.
- 3.9 The furniture and fixtures within the courtroom shall not be moved unless approved by the facility manager in advance and only in accordance with the conditions under which this approval is granted.
- 3.10 Adequate security shall be provided for any function or event for which the facility is used. The facility manager shall arrange for security through the Sheriff's Office and the cost of the on-duty or off-duty officers used for security shall be included in the facility charge.

3.11 A facility use fee shall be charged for each use of the facility. The fee is intended to cover the cost of utilities and security for each event. The fee shall be established by the Board of Commissioners from time to time. The minimum fee shall be \$250 for functions and events that do not exceed two (2) hours. An additional fee of \$100 per hour shall be charged for each hour or portion of an hour that a function or event exceeds two (2) hours. If the facility manager determines that more than two (2) security officers shall be needed for any use, the use fee shall be increased by \$50 per hour of use for each additional security officer needed. All fees shall be paid in advance with the application.

#### 4.0 IMPLEMENTATION

Implementation of this policy shall be the responsibility of Facility Manager for the Historic Courthouse as designated by the county manager.

RECOMMENDATION/PROPOSED ACTION: Consider whether to adopt the proposed policy.

#### 3) Committee Agenda Policy

##### BACKGROUND:

After the October 4, 2012 meeting of the Policy Committee, Policy Committee Chair Council requested the county attorney to draft a policy for the placement of matters on an agenda of the Policy Committee. Chair Council's concern was to avoid another meeting at which a different topic was presented than the topic identified on the agenda, persons traveled from out-of-town to make a presentation without there being any notice that they were going to speak or what they were going to speak about, and matters were placed on the agenda by individual commissioners without regard for the time constraints of the meeting. After the notice for submission of matters for the agenda was sent out, Commissioner Keefe expressed that he also wanted an agenda policy developed for all the committees.

The county attorney drafted a proposed policy just for application to the Policy Committee which could be adopted for the other committees if the Board of Commissioners desired to do so.

The county manager commented that the requests of individual commissioners might have a higher priority than the requests of the county manager. The county attorney believes the priority should remain with the requests of individual commissioners being lower than the requests of the county manager for the reason that the county manager is generally an advocate for the full Board of Commissioners.

At its November 1, 2012 meeting, the Policy Committee voted to recommend that the agenda policy be applied to all three committees.

The proposed policy as follows:

### 1.0 PURPOSE

The purpose of this policy is to establish a standardized procedure for the placement of matters on the agenda for any meeting of a standing committee of the Board of Commissioners.

Currently the standing committees are Facilities, Finance, Policy and Personnel. The policy is intended to avoid circumstances in which the committee cannot reach all items placed on the agenda during the time allotted for the meeting, with the result that the participation by persons in attendance is frustrated. The policy is further intended to promote the efficient use of the county's resources, including staff time.

### 2.0 SCOPE

This policy will apply to the placement of all matters on an agenda for any meeting of a standing committee of the Board of Commissioners.

### 3.0 STATEMENT OF THE POLICY

3.1 The clerk to the board shall be responsible for preparing and publishing the agenda for each standing committee of the Board of Commissioners, subject to the further terms of this policy.

3.2 The clerk shall place matters on the agenda in the following order of priority:

- 3.2.1 A matter which has been directed by a vote of the board of commissioners, regardless of the staff person presenting the matter;
- 3.2.2 A matter which has been directed by a vote of any standing committee, regardless of the staff person presenting the matter;
- 3.2.3 A matter which has been requested by the county manager, regardless of the staff person presenting the matter;
- 3.3.4 A matter which has been requested by an individual commissioner, regardless of the staff person presenting the matter.

3.3 No persons or organizations other than those listed in Section 3.2 shall be allowed to request the placement of a matter on an agenda. All other persons or organizations wishing to request that a matter be placed on an agenda may do so through the county manager or an individual commissioner, subject to the willingness of the county manager or an individual commissioner to do so.

3.4 No matter shall be placed on the agenda unless it is supported with a memorandum signed by the county manager or one of the persons who will present the matter. The memorandum shall provide the following:

- 3.4.1 A statement of sufficient background information for the committee members to understand the reason the committee is being requested to consider the matter;

- 3.4.2 A concise statement of what is being requested of the committee;
  - 3.4.3 The identity of who is requesting the matter;
  - 3.4.4 The identity of every person other than a staff person who will address the committee about the matter; and
  - 3.4.5 An estimate of the amount of time it will take the committee to consider the matter.
- 3.5 The clerk shall only place the number of matters on the agenda which can be considered in the one hour of time allotted for a committee meeting using the time estimates stated in the memorandum for each matter and the priorities established in Section 3.2.
- 3.6 The clerk shall establish and publish the deadline for the submission of matters for each agenda.
- 3.7 At each meeting, the clerk shall advise the committee of any matters that were not placed on that meeting's agenda due to the time limitation. The committee may vote to direct that such matters be placed on the next available agenda. If the committee does not vote to direct the placement of those matters on the next agenda, such matters shall be placed on any subsequent agenda in accordance with the terms of this policy.

#### 4.0 IMPLEMENTATION

The clerk to the board shall be responsible for the implementation of this policy.

**RECOMMENDATION/PROPOSED ACTION:** Consider whether to adopt the proposed policy.

- 4) Scheduling Board of Commissioner Meetings on National Holidays

#### **BACKGROUND:**

The Board of Commissioners at its March 18, 2002 meeting amended its regular meeting schedule so meetings that fall on the Monday designated as President's Day and Easter Monday would be held on the following day or Tuesday.

Since that time there had been mention by some Board members of further amending the regular meeting schedule so those meetings would be held on Monday.

The Policy Committee at its November 1, 2012 meeting considered the matter and by unanimous vote recommended that the Board of Commissioners' amend its regular meeting schedule so that meetings are held on the Monday designated as President's Day and meetings that fall on Easter Monday continue to be held on the following day or Tuesday.

#### **RECOMMENDATION/PROPOSED ACTION:**

Consider whether to approve the recommendation of the Policy Committee.

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

- 1) Case Number: MH 6646-2012  
Property Owner: Patricia Lessane  
Property Location: 4612 Desert Ridge Road, Parkton, NC  
Parcel Identification Number: 9493-46-0194

ORDINANCE ASSESSING PROPERTY FOR THE COSTS  
OF DEMOLITION OF A STRUCTURE PURSUANT TO  
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY  
CASE NUMBER: MH6646-2012  
PROPERTY OWNER: Patricia Lessane

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on August 20, 2012, enacted an ordinance directing the demolition by the owner(s) of the structure(s) Patricia Lessane, located at 4612 Desert Ridge Drive , Parkton, NC, PIN: 9493-46-0194, said ordinance being recorded in Book 8979, page 353 , 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 \$2200.00.
- (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 \$2200.00, 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 August 20,2012, 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 4612 Desert Ridge Drive, Parkton , NC, as described in Deed Book 6973, page 787, of the Cumberland County Registry and identified in County tax records as PIN 9493-46-0194.

(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.

- 2) Case Number: MH 6644-2012  
Property Owner: Steven Graham  
Property Location: 7332 Hypony Trail, Parkton, NC  
Parcel Identification Number: 9493-44-4782

ORDINANCE ASSESSING PROPERTY FOR THE COSTS  
OF DEMOLITION OF A STRUCTURE PURSUANT TO  
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY  
CASE NUMBER: MH6644-2012  
PROPERTY OWNER: Steven Graham

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on August 20, 2012, enacted an ordinance directing the demolition by the owner(s) of the structure(s) Steven Graham, located at 7332 Hypony Trail, Parkton, NC, PIN: 9493-44-4782, said ordinance being recorded in Book 8979, page 356, 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 \$2,200.00.
- (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 \$2,200.00, 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 August 20, 2012, 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 7332 Hypony Trail, Parkton, NC, as described in Deed Book 7170, page 378, of the Cumberland County Registry and identified in County tax records as PIN 9493-44-4782.

(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.

- 3) Case Number: MH 6642-2012  
Property Owner: John Wallace  
Property Location: 7124 Hypony Trail, Parkton, NC  
Parcel Identification Number: 9493-46-9017

ORDINANCE ASSESSING PROPERTY FOR THE COSTS  
OF DEMOLITION OF A STRUCTURE PURSUANT TO  
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY  
CASE NUMBER: MH6642-2012  
PROPERTY OWNER: John Wallace

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on August 20, 2012, enacted an ordinance directing the demolition by the owner(s) of the structure(s) John Wallace, located at 7124 Hypony Trail, Parkton, NC, PIN: 9493-46-9017, said ordinance being recorded in Book 8979, page 359, 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 \$1,600.00.
- (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 \$1,600.00, 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 August 20, 2012, 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 7124 Hypony Trail, Parkton, NC, as described in Deed Book 5330, page 262, of the Cumberland County Registry and identified in County tax records as PIN 9493-46-9017.

(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.

- 4) Case Number: MH 6643-2012  
Property Owner: James C. Shaw  
Property Location: 4611 Balducci Drive, Parkton, NC  
Parcel Identification Number: 9493-45-2804

ORDINANCE ASSESSING PROPERTY FOR THE COSTS  
OF DEMOLITION OF A STRUCTURE PURSUANT TO  
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY  
CASE NUMBER: MH6643-2012  
PROPERTY OWNER: James C. Shaw

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on August 20, 2012, enacted an ordinance directing the demolition by the owner(s) of the structure(s) James C. Shaw , located at 4611 Balducci Drive, Parkton, NC,

PIN: 9493-45-2804, said ordinance being recorded in Book 8979, page 362, 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 \$1,700.00.
- (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 \$1,700.00, 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 August 20, 2012, 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 4611 Balducci Drive, Parkton, NC, as described in Deed Book 4623, page 484, of the Cumberland County Registry and identified in County tax records as PIN 9493-45-2804.

(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.

- 5) Case Number: MH 6645-2012  
Property Owner: Charles McIntyre & Stephanie Foster  
Property Location: 4741 Desert Ridge Road, Parkton, NC  
Parcel Identification Number: 9493-55-5245

ORDINANCE ASSESSING PROPERTY FOR THE COSTS  
OF DEMOLITION OF A STRUCTURE PURSUANT TO  
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY  
CASE NUMBER: MH6645-2012

PROPERTY OWNER: Charles McIntyre & Stephanie Foster

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on August 20, 2012, enacted an ordinance directing the demolition by the owner(s) of the structure(s) Charles McIntyre and Stephanie Foster, located at 4741 Desert Ridge Drive, Parkton, NC, PIN: 9493-55-5245, said ordinance being recorded in Book 8979, page 347, 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 \$2,100.00.
- (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 \$2,100.00, 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 August 20, 2012, 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 4741 Desert Ridge Drive, Parkton, NC, as described in Deed Book 6842, page 780, of the Cumberland County Registry and identified in County tax records as PIN 9493-55-5245.

(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.

J. Budget Revisions:

1) Emergency Service Grants

Revision in the amount of \$9,901 to de-obligate funds for Homeland Security Grant that was not spent. (B13-167) Funding Source – State

2) Library Grants

Revision in the amount of \$2,000 to recognize state funds for the Raising the Bar @ Your Library Grant. (B13-166) Funding Source – State

3) Library

Revision in the amount of \$25,737 to reduce state library funding for FY2013. (B13-165) Funding Source – State

4) Planning and Inspections

Revision in the amount of \$54,600 to appropriate fund balance to increase the demolition and rehabilitation expenditure estimated to be used in FY2013. (B13-163) Funding Source – General Fund Fund Balance

5) Mental Health

a. Substance Abuse Contracts: Revision in the amount of \$80,000 to recognize additional state authorization of Workfirst funds. (B13-168) Funding Source – Federal

b. Child & Youth Contracts: Revision in the amount of \$550,000 to recognize additional Medicaid pass-through payments to provide Foster Care Level II services to children. (B13-169) Funding Source - Fees

6) Eastover Sanitary District Water Project II/ESD General Fund

Revision to reallocate budget project expenditures of \$12,567; close the project; and transfer balance of funds to the ESD General Fund. (B13-170 and B13-170A) Funding Source – Other

MOTION: Commissioner King moved to approve consent Items 2.A. – 2.J.(6) with the exception of Items 2.B. and 2.D. as pulled for separate discussion and action.  
SECOND: Commissioner Edge  
VOTE: UNANIMOUS (7-0)

2.B. Approval to Amendment to Hospital Transfer Agreement

BACKGROUND:

The Hospital Board has already voted to approve the attached First Amendment to the Transfer Agreement and has requested that the County also approve this amendment. The amendment continues the requirement that the Hospital Board shall act in compliance with the Open Meetings Law but removes the contract provision that votes of the Corporation’s governing board on the salary and incentive bonus of the chief executive officer of the Corporation shall be taken in open session.

RECOMMENDATION/PROPOSED ACTION:

County Attorney advises the amendment will promote the opportunity for more discussion and debate of the annual compensation decision and recommends that the amendment be approved.

FIRST AMENDMENT TO THE  
TRANSFER AGREEMENT

This FIRST AMENDMENT TO THE TRANSFER AGREEMENT (hereinafter referred to as “First Amendment”), is made and entered into on this \_\_\_\_\_ day of November 2012 between the COUNTY OF CUMBERLAND, a political subdivision of the State of North Carolina (the “County”), acting by and through its Board of County Commissioners (the “County Board”), and CUMBERLAND COUNTY HOSPITAL SYSTEM, INC., a North Carolina nonprofit corporation (the “Corporation”), acting by and through its Board of Directors (the “Hospital Board”);

WITNESSETH:

WHEREAS, the parties hereto previously entered into a Transfer Agreement (hereinafter referred to as “Agreement”) dated May 4, 2006; and

WHEREAS, the Hospital Board voted unanimously to delete the second paragraph of Section 13 of the Agreement, subject to the County’s agreement, during its regularly scheduled Hospital Board meeting held on April 25, 2012; and

WHEREAS, the County Board voted unanimously to delete the second paragraph of Section 13 of the Agreement during its regularly scheduled County Board meeting held on November 19, 2012.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties do hereby agree as follows:

1. Section 13 of the Agreement shall be deleted in its entirety and replaced with the following language:

Section 13. Open Meetings. The Corporation shall operate in accordance with the Open Meetings Act, as set forth in NCGS Section 143.318-10 on the date hereof, for meetings of its governing board.

2. In all other respects, the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the County and the Corporation have caused this First Amendment to be executed on the day and year above written.

\*\*\*\*\*

At the request of Commissioner Evans, Rick Moorefield, County Attorney, explained the hospital Board of Trustees voted on the amendment to the transfer agreement this year and the attorney for the hospital Board of Trustees has asked the Board of Commissioners to approve the same. Mr. Moorefield stated the amendment is a proposed revision to Section 13. of the contract between the county and the hospital and is to remove the requirement that the Board of Trustees vote on the salary and incentive bonuses for the hospital's Chief Executive Officer (CEO) in open session. Mr. Moorefield advised it takes both parties to approve an amendment to the transfer agreement and the Board of Commissioners, should it so choose, can do so by majority vote.

MOTION: Commissioner Evan moved to disapprove the amendment to the hospital transfer agreement.

SECOND: Commissioner King

DISCUSSION: Commissioner Melvin stated he could not support the amendment because the citizens of Cumberland County have the right to know the CEO's salary because the hospital belongs to the citizens. In response to a question from Commissioner Keefe, Mr. Moorefield stated the hospital Board of Trustees unanimously approved the amendment. Commissioner Keefe noted the Board of Commissioners serves on the hospital Board of Trustees. Commissioner Council stated she will support the approval of the amendment because the Board of Trustees of which she is a member passed it unanimously and a lot of hospitals in the country do not report CEO salaries. Commissioner King stated although he voted for the amendment at the Board of Trustees' meeting, he could argue that either board could take the hit and defend any increase in salary or bonuses for the CEO based on his performance of the goals and objectives they set for him. Commissioner Evans stated his disapproval is not based on the CEO's salary but full disclosure of his salary to the public.

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

**MOTION:** Commissioner Edge moved to approve the amendment to the hospital transfer agreement.  
**SECOND:** Commissioner King  
**VOTE:** PASSED (5-2) (Commissioners King, Keefe, Faircloth, Council and Edge voted in favor; Commissioners Evans and Melvin voted in opposition)

2.D. Approval of Resolution Regarding Alliance Behavioral Healthcare Board Structure

**BACKGROUND:**

At the October 1, 2012 meeting of the Board of Commissioners, Ellen Holliman requested the Board to adopt a resolution authorizing the Alliance to establish the alternative governing board structure authorized by Senate Bill 191. The alternative board structure was approved by the Johnston County Board of Commissioners on that date. Ms. Holliman has stated that the alternative board structure allows the Alliance Board to be constituted with members who have business and financial experience commensurate with the \$300 million business to be conducted by the Alliance. Without the alternative board structure, Senate Bill 191 mandates the occupational categories of 13 members of the board. Senate Bill 191 establishes that the Secretary of DHHS must receive and approve the resolution by January 1, 2013 in order for the alternative structure to be established. This is a very important issue to the Alliance Board and Ms. Holliman has requested the Cumberland County Board to approve the resolution before December 1, 2012, in order to meet the January 1, 2013 deadline. After that deadline, there is no statutory mechanism to establish the alternative structure.

On October 30, 2012 the county manager asked Ms. Holliman to support a request from the Cumberland County Board of Commissioners for more seats on the Alliance Board under the existing interlocal agreement. Ms. Holliman advised that she was not opposed to this request but there simply was not enough time to take this back to the Boards of Commissioners of the other three counties and re-open negotiations on the numbers of board seats allocated for each county. She asked that the Cumberland County Board continue its consideration and approval of the resolution and stated that she would support our continued efforts to attain more board seats.

At the November 5, 2012 meeting of the Board of Commissioners, Deputy DHHS Secretary Beth Melcher discussed the functions of the MCO in the delivery of mental health services. Deputy Secretary Melcher stated the MCO would operate in the same manner as a large insurance company. This is the best description of the need for the alternative board structure. The Alliance board seeks to maintain a board comprised of members with the most financial and managerial expertise to direct the operation of this newly formed insurance business entity.

**RECOMMENDATION/PROPOSED ACTION:**

This is a time-sensitive issue and the county manager and county attorney recommend that the resolution be approved as requested.

Board of County Commissioners  
of  
Cumberland County Resolution Approving Alternative Board Structure for the Alliance Behavioral Healthcare Area Authority pursuant to N.C. Gen. Stat. § 122C-118.1

WHEREAS, the General Assembly revised 122C-118.1- Structure of area board to allow Boards of County Commissioners within a multicounty area with a catchment population of at least 1,250,000 to have the option to appoint members of the area board in a manner or with a composition other than as required by this Section by each county unanimously adopting a resolution to that effect and receiving written approval from the Secretary of DHHS; and

WHEREAS, the Boards of County Commissioners of Durham and Wake Counties approved by joint resolution the creation of Alliance Behavioral Healthcare, a multicounty area authority pursuant to N.C. General Statute 122C-115 for the provision of mental health, developmental disabilities and substance abuse services effective April 23, 2012;

NOW, THEREFORE, BE IT RESOLVED by the Cumberland County Board of Commissioners that comprises the catchment area for Alliance Behavioral Healthcare that the Board of Directors for the area authority shall be appointed as follows:

The Area Board will consist of Eight (8) members shall be appointed by Durham County, six (6) members shall be appointed by Wake County and Two seats shall be at-large. No member shall serve more than three (3) consecutive full terms. The process for appointment shall be according to the following general terms and conditions:

- a. Eight (8) Area Board members shall be appointed by the Durham County Board of Commissioners. Seated members now serving on the The Durham Center Board shall transition to the new Area Board and serve terms consistent with the requirements set forth in N.C. Gen. Stat. § 122C-118.1(d). Board representatives will include one (1) with business expertise, one (1) with financial expertise and one (1) person who represents the interest of children as required by G.S. 122C-118.1(a). Additionally two (2) consumers/ families/ advocates will be appointed. A Board member may concurrently represent two categories of membership.
- b. Six (6) Area Board members shall be appointed by the Wake County Board of Commissioners. Board representatives will include one (1) with business expertise, one (1) with financial expertise and one (1) person who represents the interest of children as required by N.C. Gen. Stat. § 122C-118.1(a). Additionally two (2) consumers/ families/ advocates will be appointed. A Board member may concurrently represent two categories of membership.
- c. The area authority shall fill the two (2) at-large seats consistent with the criteria currently required by the Alliance Behavioral Healthcare by-laws. The at-large seats shall initially be filled by one (1) representative from each Johnston and Cumberland counties and said appointees shall hold their seat for the duration of the contract agreement between the Alliance Area Authority and the respective

counties. Upon termination of the contract agreement between the new Alliance and Johnston and Cumberland counties, the at-large seats shall be filled in accordance with needs and wishes of Alliance Behavioral Healthcare. Other Area Board requirements will be jointly developed consistent with the requirements of N.C. Gen. Stat. § 122C-118.1. Alliance Behavioral Healthcare Area Authority will accept applications, interview and recommend appointments to the Board of County Commissioners.

The Chairman of the Board declared this Resolution adopted this 19th day of November, 2012.

\*\*\*\*\*

Commissioner Evans stated action on the Resolution was delayed at the Board of Commissioners' October 1, 2012 meeting due to concerns he had regarding Alliance's Board and since that time, he has had the opportunity to speak with Ellen Holliman, Alliance Behavioral Healthcare's Area Director.

Ms. Holliman stated unanimous support is needed for the Resolution for Alliance's alternative board structure and Commissioner Evans requested and she agreed to advocate in good faith for at least three additional seats for Cumberland County. Ms. Holliman stated this will be subject to agreement of the Alliance Board and with all the Boards of County Commissioners that participate with Alliance. Ms. Holliman stated the alternative board structure will be in the best interest of the citizens of Durham, Wake, Johnston and Cumberland counties.

MOTION: Commissioner Evans moved to approve the Resolution for the Alliance's alternative board structure.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

### 3. Public Hearings

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

#### **Uncontested Initial Zoning Case**

- A. Case P12-59: Initial zoning of the county portion of Gates Four (Irongate) subdivision, containing 780.68+/- acres to CD Conservancy, R5A Residential and R7.5 Residential, or to a more restrictive zoning district; located between SR 1108 (Lakewood Drive) and SR 1109 (Dundle Road), north of SR 1112 (Stoney Point Road); submitted by Cumberland County

RECOMMENDATION: Members present at the October 16, 2012 meeting of the Joint Planning Board recommended adoption and approval of the consistency and

reasonableness statements and approval of CD Conservancy, R5A Residential and R7.5 Residential.

\*\*\*\*\*

Tom Lloyd, Planning and Inspections Director, noted the case was uncontested and no speakers had signed up in opposition.

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 for approval of CD Conservancy, R5A Residential and R7.5 Residential.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

### **Uncontested Rezoning Cases**

B. Case P12-58: Rezoning of 2.41+/- acres from A1 Agricultural to R40A Residential, or to a more restrictive zoning district, located at 6370 Murphy Road, submitted by Doene Carter (owner)

CASE P12-58 was deferred to the December 17, 2012 meeting.

C. Case P12-66: Rezoning of 1.96+/- acres from A1 Agricultural to R40A Residential, or to a more restrictive zoning district, located at 3348 and 3352 Blossom Road, submitted by Dennis M. and Angela E. Adesso (owners)

RECOMMENDATION: Members present at the October 16, 2012 meeting of the Joint Planning Board recommended adoption and approval of the consistency and reasonableness statements and to approve R40A Residential district.

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Mr. Lloyd noted the case was uncontested and no speakers had signed up in opposition

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 King moved to approve R40A Residential district.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

**Uncontested Conditional Zoning Cases**

D. Case P11-56: Rezoning of 34.55+/- acres from A1 Agricultural to R20 Residential/DD Density Development/CZ Conditional Zoning District for a 56 lot residential subdivision, or to a more restrictive zoning district; located east of SR 2252 (Chicken Foot Road), southwest of SR 2233 (School Road); submitted by Roger Shah on behalf of OM NAMH SHIVAAY, LLC (owner)

RECOMMENDATION: Members present at the October 16, 2012 meeting of the Joint Planning Board recommended adoption and to approve the 32 residential lot R40 Density Development Conditional Zoning application.

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Mr. Lloyd noted the case was uncontested and no speakers had signed up in opposition

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 King moved to approve the 32 residential lot R40 Density Development Conditional Zoning application.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

E. Case P12-64: Rezoning of 228.39+/- acres from A1 Agricultural to A1 Agricultural/CZ Conditional Zoning District for a quarry, or to a more restrictive zoning district; located on the northeast side of SR 1707 (Carlos Road), southwest of SR 1706 (Durant Nixon Road); submitted by Luinda C. Bailey and Teresa B. Gilchrist on behalf of Glenard W. Bailey Limited Partnership (owner) and American Materials Company LLC.

RECOMMENDATION: Members present at the October 16, 2012 meeting of the Joint Planning Board recommended adoption and to approve A1 Agricultural/CZ Conditional Zoning district for a quarry.

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Mr. Lloyd noted the case was uncontested and no speakers had signed up in opposition Commissioner King asked why no one from the community opposed the case. Mr. Lloyd stated the request was for the expansion of an already existing quarry.

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 King moved to approve A1 Agricultural/CZ Conditional Zoning district for a quarry.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

**Other Public Hearings - Minimum Housing Code Enforcement**

Mr. Martin explained the Board of Commissioners' procedure for minimum housing code enforcement public hearings.

The Clerk to the Board administered an oath to George Hatcher, Inspector for the County of Cumberland Inspection Department, who provided information to the Board of Commissioners regarding the following cases:

- F. Case Number: MH 6656-2012  
Property Owner: Rizz Edmund Pittman  
Property Location: 1129 Jossie Street, Fayetteville, NC  
Parcel Identification Number: 0520-98-1949

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 6656-2012.

Property Owner: Rizz Edmund Pittman  
Home Owner: Rizz Edmund Pittman  
Property Address: 1129 Jossie Street, Fayetteville, NC  
Tax Parcel Identification Number: 0520-98-1949

SYNOPSIS: This property was inspected on 1/11/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 2/23/2012. Rizz Pittman attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 5/23/2012. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 11/9/2012, the required corrective action had not been made to the structure. The structure is presently reasonably secured. 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 \$45,000.00. The Assessor for Cumberland County has the structure presently valued at \$810.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 Edge

VOTE: UNANIMOUS (7-0)

- G. Case Number: MH 6853-2012  
Property Owner: Margaret Martin  
Property Location: 7365 Third Street, Wade, NC  
Parcel Identification Number: 0581-15-3854

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 6853-2012.

Property Owner: Margaret Martin  
Home Owner: Margaret Martin  
Property Address: 7365 Third Street, Wade, NC  
Tax Parcel Identification Number: 0581-15-3854

SYNOPSIS: This property was inspected on 7/25/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 8/30/2012. Margaret Martin attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 11/30/2012. 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 11/9/2012, 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 \$38,000.00. The Assessor for Cumberland County has the structure presently valued at \$0.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Keefe moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 Edge

VOTE: UNANIMOUS (7-0)

H. Case Number: MH 6831-2012  
Property Owner: Sundust, LLC & Mark A. Stout  
Property Location: 3301 Clinton Road, Fayetteville, NC  
Parcel Identification Number: 0456-78-3194

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 6831-2012.

Property Owner: Sundust, LLC. & Mark A. Stout  
Home Owner: Sundust, LLC. & Mark A. Stout  
Property Address: 3301 Clinton Road, Fayetteville, NC  
Tax Parcel Identification Number: 0456-78-3194

SYNOPSIS: This property was inspected on 7/13/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 8/23/2012. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 9/23/2012. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 11/9/2012, 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 \$30,000.00. The Assessor for Cumberland County has the structure presently valued at \$500.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

Commissioner Keefe asked why the county did not sue Sundust, LLC if it was still active. Mr. Hatcher stated the LLC was active but did not respond to letters to remove or secure the structure.

MOTION: Commissioner Edge moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 King

VOTE: UNANIMOUS (7-0)

- I. Case Number: MH 6759-2012  
Property Owner: William & Rebecca Wilson  
Property Location: 8008 Twisted Oaks Drive, Fayetteville, NC  
Parcel Identification Number: 0471-58-4354

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 6759-2012.

Property Owner: William & Rebecca Wilson  
Home Owner: William & Rebecca Wilson  
Property Address: 8008 Twisted Oaks Drive, Fayetteville, NC  
Tax Parcel Identification Number: 0471-58-4354

SYNOPSIS: This property was inspected on 5/1/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 6/7/2012. William Wilson 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 9/7/2012. 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 11/9/2012, 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 \$45,000.00. The Assessor for Cumberland County has the structure presently valued at \$500.00.

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

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 Melvin

VOTE: UNANIMOUS (7-0)

J. Case Number: MH6751-2012  
Property Owner: Stephen A. Byrnes  
Property Location: 4710 Tippet Trail, Fayetteville, NC  
Parcel Identification Number: 0433-77-5571

AFFIDAVIT OF THE HOUSING INSPECTOR'S REPORT

BEFORE THE BOARD OF CUMBERLAND COUNTY COMMISSIONERS

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 6751-2012.

Property Owner: Stephen A. Byrnes  
Home Owner: Stephen A. Byrnes  
Property Address: 4710 Tippet Trail, Fayetteville, NC  
Tax Parcel Identification Number: 0433-77-5571

SYNOPSIS: This property was inspected on 4/25/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 5/31/2012. Stephen A. Byrnes 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 8/31/2012. 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 11/9/2012, no corrective action had been made to the structure. The structure is presently vacant and reasonably secured. 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 \$45,000.00. The Assessor for Cumberland County has the structure presently valued at \$1,998.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Keefe moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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)

- K. Case Number: MH 6806-2012  
Property Owner: John D. Williams  
Property Location: 313 Charles Street, Fayetteville, NC  
Parcel Identification Number: 0426-90-4406

**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 6806-2012.

Property Owner: John D. Williams  
Home Owner: John D. Williams  
Property Address: 313 Charles Street, Fayetteville, NC  
Tax Parcel Identification Number: 0426-90-4406

SYNOPSIS: This property was inspected on 6/21/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 7/19/2012. John D. Williams 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 9/27/2012. 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 11/9/2012, no corrective action had been made to the structure. The structure is presently vacant and reasonably secured. 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 \$2,537.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Edge moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 Melvin

VOTE: UNANIMOUS (7-0)

- L. Case Number: MH 6858-2012  
Property Owner: James & Margaret McKoy  
Property Location: 1051 Andrews Road, Fayetteville, NC  
Parcel Identification Number: 0521-81-6161

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 6858-2012.

Property Owner: James W. & Margaret G. McKoy  
Home Owner: James W. & Margaret G. McKoy  
Property Address: 1051 Andrews Road, Fayetteville, NC  
Tax Parcel Identification Number: 0521-81-6161

SYNOPSIS: This property was inspected on 8/1/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 8/27/2012. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 9/28/2012. 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 11/9/2012, 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 \$60,000.00. The Assessor for Cumberland County has the structure presently valued at \$1926.00.

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

\*\*\*\*\*

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

Commissioner King asked whether anyone had responded to letters sent by the county. Mr. Hatcher stated the owners received notice but have not taken corrective action. Commissioner King asked about options other than demolition. Mr. Hatcher stated if action was for rehabilitation, the county would take on the responsibility of making the property habitable. Mr. Hatcher stated it is not uncommon to see individuals walk away from their property. Commissioner King stated it did not make sense to him because of the new construction in the neighborhood. Mr. Hatcher confirmed correspondence has been sent via certified mail and none of the correspondence had been returned so the owners had been legally served. In response to a question posed by Commissioner Keefe, Mr. Hatcher stated the case had been complaint driven through the Sheriff's Office.

Commissioner Faircloth asked if the Board had authority to secure the property. Mr. Hatcher stated the county could secure the property but then no corrective action would be taken to rehabilitate the property to make it habitable. Mr. Hatcher stated following demolition, the vacant lot would be marketable and the lien on the property would be satisfied upon sale.

Commissioner Keefe asked whether there would be legal issues if there was a mortgage on the property. Mr. Moorefield responded in the negative. Joey Lewis, Inspector for the County of Cumberland Inspection Department, explained the owners are deceased and communication has been with the son who resides out of state. Mr. Lewis stated the son has been served and he has spoken with him by phone. Mr. Lewis stated the son and his sister are the legal owners.

Commissioner Council expressed concern for the property in its current condition as the county could be liable. Chairman Faircloth stated if there are extenuating circumstances and no one shows up for the public hearing to communicate the same to the Board, then

the Board has no way of knowing the circumstances exist. Commissioner Edge stated if the structure is demolished, the lot will be more marketable and worth more, and the owners may want the county to demolish the structure and impose a lien because it could be to their advantage. Commissioner Edge asked the cost of demolition. Mr. Hatcher stated bids had not yet been let. Mr. Lewis stated the structure had an assessed value of \$1,960 and the lot had been valued at \$18,000.

**MOTION:** Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; to order the property owner to remove or demolish the dwelling within 60 days; to order the Inspector to remove or demolish the dwelling if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

**SECOND:** Commissioner Evans

Commissioner King asked Commissioner Council if she would agree to a longer period of time. Mr. Hatcher stated he would ask the Board for authority to secure the property if it granted 90 days as it would involve the county's carpentry shop or the letting of bids to hire a contractor. Commissioner King asked county staff if they had aggressively attempted to contact the owner. Mr. Lewis responded in the affirmative and stated he had talked with the owner by phone who understands exactly what is happening.

**AMENDED MOTION:** Commissioner Council moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; to order the property owner to remove or demolish the dwelling within 90 days; to order the Inspector to remove or demolish the dwelling if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

**SECOND:** Commissioner Evans

Commissioner Keefe stated if the owner has been contacted and is not responding, then there is no reason to extend 90 days. Chairman Faircloth concurred. Mr. Lewis stated the HVAC was recently removed from the property and vandals/vagrants are coming and going as they please. Commissioner Keefe stated the owner has no desire to rehabilitate the property and he did not see any benefit in extending for 90 days.

**SUBSTITUTE MOTION:** Commissioner Keefe moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; 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 Edge

VOTE ON SUBSTITUTE MOTION: PASSED (4-3) (Commissioners Keefe, Faircloth, Melvin and Edge voted in favor; Commissioners King, Evans and Council voted in opposition)

### **Other Public Hearings**

#### M. Public Hearing on FTCC Installment Financing Project

##### **BACKGROUND:**

As you may recall, the Board of Trustees from Fayetteville Technical Community College (FTCC) requested funding in the amount of \$3,500,000 for capital projects in their FY2012 budget request. These funds are needed to completely replace the aging mechanical systems for Lafayette Hall (\$2,500,000) and to replace the roofs on the YMCA building, Neil Currie Building, and the Library (\$1,000,000).

Their request was for the County to pursue options available to finance these capital costs. FTCC would then use their normal capital allocation for the principal and interest payments. We believe the most viable option is an installment financing agreement with a financial institution. Since these improvements will “attach” to real property, this financing must be approved by the Local Government Commission (LGC).

At your last meeting, a resolution was approved which authorized the filing of an application to the LGC for this financing. The resolution also documented certain findings that are required for the transaction under G.S. 159-151. Additionally, you authorized publication of a notice of the public hearing on the proposed installment financing contract.

##### **RECOMMENDATION/PROPOSED ACTION:**

- 1 Hold the public hearing on the proposed financing as authorized by G.S. 159-151.
2. Authorize the County Manager, County Attorney, and the County Finance Director to execute the documents necessary to finalize this installment financing transaction.

\*\*\*\*\*

Amy Cannon, Deputy County Manager, reviewed the background information and recommendation as recorded above. Ms. Cannon stated the resolution which authorized the filing of an application to the LGC called for up to amount of \$3.6 million to include the financing costs and fees. Ms. Cannon stated it will be significantly less than the \$3.6 million.

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 authorize the County Manager, County Attorney, and the County Finance Director to execute the documents necessary to finalize this installment financing transaction.  
SECOND: Commissioner Melvin  
VOTE: UNANIMOUS (7-0)

N. Public Hearing on Closure of a Portion of Wade-Stedman Road

BACKGROUND:

At its October 1, 2012 meeting, the Board received the petitions of the adjoining property owners, adopted a resolution of intent to close the requested portion of Wade-Stedman Road, and called for a public hearing on the question to be conducted on November 19, 2012. The Department of Transportation has reported that it has abandoned this portion and removed it from State maintenance. The attached order makes the requisite findings pursuant to G.S. 153A-241 for the Board to order the closure. The order must be recorded in the register of deeds.

RECOMMENDATION/PROPOSED ACTION:

Conduct the public hearing to hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. NOTE: If any person speaks in opposition to the closure, the proposed Order must be modified to reflect those comments.

After conducting the public hearing, if the Board is satisfied that the closure is not contrary to the public interest and that no individual owning property in the vicinity of the road would thereby be deprived of reasonable means of ingress and egress to his property, adopt the order of closure.

**ORDER OF THE BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY  
CLOSING A PORTION OF WADE-STEDMAN ROAD  
PURSUANT TO G.S. 153A-241**

At its regular meeting held on October 1, 2012, the Board of Commissioners adopted a resolution of intent to close that portion of Wade-Stedman Road (S.R. 1826) as requested by adjoining property owners, Ali Alsaidi and Alfiah Alsaidi, Clarence Lee Tart, Jr., and Mary Lee B. Tart, and Joan W. Peacock, and as described in the legal description prepared by Moorman, Kizer & Reitzel attached to this order as Exhibit A; and further calling for a public hearing on the question to be conducted at the Board's regular meeting on November 19, 2012.

After conducting the public hearing on this date, the Board of Commissioners finds the following:

1. Notice of the public hearing on the question reasonably calculated to give full and fair disclosure of the proposed closing was published in the *Fayetteville Observer* once a week for three successive weeks as shown in the Publisher's Affidavit.
2. A copy of the resolution was sent by registered or certified mail to each owner shown on the county tax records of property adjoining the portion of the public road to be closed who did not join in the request to have the road closed as shown on the Affidavit of Notice.
3. Notice of the closing and public hearing was prominently posted in at least two places along the road as shown in the Certificate of Posting.
4. No one spoke in opposition to closing the portion of Wade-Stedman Road described herein at the public hearing.

Based on the foregoing findings of fact, the Board of Commissioners is satisfied that closing the portion of Wade-Stedman Road described herein is not contrary to the public interest and no individual owning property in the vicinity of the road would thereby be deprived of reasonable means of ingress and egress to his property.

The Cumberland County Board of Commissioners does hereby order that the portion of Wade-Stedman Road (S.R. 1826) described in the legal description prepared by Moorman, Kizer & Reitzel attached hereto as Exhibit A, consisting of approximately 265' in length at the terminus of its centerline with the boundary of U.S. Highway 13 and located in Black River Township, Cumberland County, be and is closed to public use.

It is further ordered that a certified a copy of this order shall be filed in the office of the register of deeds.

Adopted in regular meeting held the 19<sup>th</sup> day of November, 2012.

\*\*\*\*\*

Mr. Moorefield reviewed the background information as recorded above.

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:

David Faircloth – Mr. Faircloth stated he was an adjacent landowner and has an easement for a two inch water line that goes to a well. Mr. Faircloth stated if the road is closed, he would like to know his recourse

for the water line. Mr. Faircloth stated he has something signed by DOT that it runs on the easement.

Mr. Moorefield stated if Mr. Faircloth has an easement on this portion of the road, it would survive this action but he cannot give a legal opinion. Mr. Moorefield stated Mr. Faircloth would have to consult a private attorney. Mr. Faircloth stated he had a right of way/encroachment agreement. Mr. Moorefield stated a right of way/encroachment agreement was not the same as an easement and stated he did not know what arrangement Mr. Faircloth had with the adjoining property owners, the Peacocks. Mr. Moorefield stated if Mr. Faircloth's agreement was with the prior property owners, it would likely survive action by the Board. Mr. Faircloth stated he would like to have that in writing. Mr. Moorefield stated Mr. Faircloth would have to secure a private attorney for an opinion.

Jim Nance – Mr. Nance stated he represents the owners of the Four Points Mini-Mart and he did not feel that portion of the road would reach Mr. Faircloth's property. Mr. Nance displayed a DOT map depicting the Faircloth and Peacock's land and the portion of the road being abandoned. Mr. Nance stated there was no easement indicated on the map. Mr. Nance stated the Four Points Mini-Mart needed the road closed because when DOT took the property and reduced the size of the Four Point Mini-Mart, it made it unsafe for delivery trucks and as a result, the mini-mart has lost a considerable amount of business. Mr. Nance stated he would request that action not be delayed on behalf of his client because the mini-mart is hurting financially each month that goes by.

Chairman Faircloth closed the public hearing.

Chairman Faircloth asked what the potential impact would be on the Faircloth's well. Mr. Moorefield stated without specific documents, he is unable to say. Mr. Moorefield stated regardless of the Board's action on the closure, Mr. Faircloth has to get with the Peacocks to determine if anything further is needed. Mr. Moorefield advised DOT has already abandoned the road and it is no longer part of the state highway system.

Chairman Faircloth advised Mr. Faircloth that the Board cannot protect his interests by delaying action and suggested that Mr. Faircloth talk with the Peacocks and hire a private attorney to put matters in writing.

MOTION: Commissioner Keefe moved to table the matter for thirty days.  
SECOND: Commissioner Evans

Commissioner Edge suggested returning the matter to the December 3, 2012 meeting to relieve the impact on the Four Points Mini-Mart. Chairman Faircloth asked Mr. Faircloth is that would give him enough time. Mr. Faircloth stated he would like thirty days.

AMENDED MOTION: Commissioner Keefe moved to table the matter until the second meeting in December.

SECOND: Commissioner Evans

VOTE ON AMENDED MOTION: UNANIMOUS (7-0)

Mr. Moorefield asked that Mr. Faircloth keep his office informed because should his office not hear from him, it will be reported to the Board as an update.

O. Public Hearing on Proposed Economic Development Incentive for Sykes Enterprises

BACKGROUND:

In a closed session, the Board has indicated its intent to approve an economic development incentives agreement for an unnamed company identified as Project 500. Russ Rogerson has reported the company to be Sykes Enterprises and the public hearing was advertised for that company. The details of the project are set out in the attached summary prepared by Russ Rogerson. The name of the company is not mentioned in Mr. Rogerson's summary.

Although the summary indicates that the company has scored 32 points for the jobs to be created, the county attorney notes that none of the jobs qualify under the joint economic development incentives policy because they have been reported to be below the median wage for the county. Also, the proposal is to extend the grant-backs to seven rather than five years allowed by the policy.

The proposed agreement would provide an incentive in the amount of 50% of the taxes paid at the general property tax on the Direct Taxable Investment for a period of seven years. To be eligible for the incentive payments, the Company would be obligated to create and maintain 150 new jobs at its business location in Cumberland County. The county attorney notes that the City of Fayetteville has tentatively approved an incentives agreement for Sykes Enterprises, Inc., for a 50% grant-back for five years for the creation of 150 jobs with the grant-back to be extended for two additional years if the company creates 300 jobs.

Notice of the public hearing was advertised in the Fayetteville Observer on November 9, 2012. Mr. Rogerson has also reported that Mr. Dave Binnie, Golbal VP of HR Operations, will appear at the public hearing on behalf of the company.

RECOMMENDATION/PROPOSED ACTION:

Consider the approval of the terms of this agreement after conducting a public hearing.

\*\*\*\*\*

Mr. Moorefield reviewed the background information as recorded above. Mr. Moorefield stated his understanding is that the company the agreement will be with is Raeford Road Associates, LLC and the company will be doing business as Sykes Enterprises, Inc. with an arrangement in the lease for a pass through of the incentives. Mr. Moorefield stated should the Board so approve, the county will draft an agreement for Raeford Road Associates, LLC with the appropriate language to make sure the jobs are created and maintained.

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:

Russ Rogerson – Mr. Rogerson stated he appreciated the Board’s consideration of this project which will be wonderful for the community. Mr. Rogerson stated Sykes Enterprises, Inc. is well known and will add value to the community. Mr. Rogerson introduced Andrea B. Thomas as a representative of the company.

Andrea B. Thomas – Ms. Thomas thanked all parties involved and stated Sykes Enterprises, Inc. is a global leader of customer contact management solutions and services in the business outsourcing arena which means it has call centers. Ms. Thomas stated they are located in over twenty countries with over seventy-five contact centers. Ms. Thomas stated the company is looking forward to opening a contact center in Cumberland County with over 150 jobs initially.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Edge moved to approve the agreement as presented.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (7-0)

### **Items of Business**

4. Mental Health Clinic Report by Buck Wilson, Health Director

#### **BACKGROUND:**

Per the request of the Board of Commissioners at the October 15, 2012 meeting, a monthly update on Mental Health services was requested.

The following reports have been provided to the Board:

- Productivity Report for October 2012
- Productivity Report – Full Time Staff for October 2012

- Productivity Report – Other/Exceptions for October 2012

\*\*\*\*\*

Mr. Wilson referenced the reports provided to the Board and stated the good news is that the current projected shortfall is \$2 million and last year the program cost \$2.8 million, which means the county is better off than it was last year. Mr. Wilson stated he added the October 15-31, 2012 data to the productivity report since the report was provided to the Finance Committee at its November 1, 2012 meeting. Mr. Wilson further stated the report has also been broken up into productivity for full time, part time and other employees. Mr. Wilson directed the Board to data for the total direct time percentage for the entire staff which was at 47%. Mr. Wilson stated this was broken out so that nurses and other non-billable staff would not be included and the total direct time percentage factored out to 60%. Mr. Wilson stated if the 0% is removed, the total direct time percentage is 67% which is close to last year's 74%. Mr. Wilson stated one discrepancy is that some of the additional non-billable services are not being submitted so services are probably where they were at last year. Mr. Wilson pointed out that some clinicians are working beyond the number of hours paid which means they are working overtime to reach 89%.

Mr. Wilson responded to questions and asked the pleasure of the Board with regard to future reports. Mr. Martin stated there was action by the Board to have the reports presented at Board meetings but since that time there has been discussion to have the reports presented at the Finance Committee meetings which will continue.

Commissioner Evans asked what will happen with services provided at the Bradford Avenue location. Mr. Martin stated that program is under the direction of the Public Health Department and until there is a decision made by the Board about another service provider, then the program would continue under the Public Health Department. Mr. Martin stated what is being looked at is a way to reduce the net costs to below \$2 million as soon as possible and within the next few months the Board should probably look at how to best continue those services. Mr. Martin stated it would never be his intent not to have a provision for those services for Cumberland County and the question is how to do so in the most efficient and cost effective way.

5. Consideration of Mental Health Matters:

- A. Ownership and Future Use of Portion of General Fund Balance “Assigned for Mental Health Services”

**BACKGROUND:**

For many years the County has identified unspent annual local mental health appropriations in its General Fund Balance as “Reserved for Mental Health”. The FY2012 annual audit will identify these funds as “Assigned for Mental Health Services” due to GASB 54 requirements. County fiscal policies require that state and federal funds be expended prior to expending County funds.

The annual audit for FY 2012 will reflect \$14,364,212 to be “Assigned for Mental Health Services”.

It should be noted that this balance has been reduced by Board of Commissioner approved appropriations of \$1,517,549 since the FY13 budget was adopted. It is further noted this balance will need to be reduced by the revenue shortfall of the mental health clinic and to address any service delivery needs not covered by Federal and State funds.

**RECOMMENDATION / PROPOSED ACTION:**

Management recommends the Board of Commissioners continue to retain these funds as a part of the General Fund Balance “Assigned for Mental Health Services” to be utilized for direct mental health services, administered by the Alliance MCO, as from time-to-time approved and appropriated by the Board of Commissioners.

\*\*\*\*\*

Mr. Martin reviewed the background information as referenced above. Mr. Martin stated county staff met with Hank Debnam, Mental Health Area Authority Director, and his staff and it is the opinion that the money is Cumberland County fund balance. Mr. Martin stated there is the issue raised by Mr. Moorefield in his report that perhaps the state could take everything other than 15% of the fund balance; however, the belief is that is not likely to happen.

Mr. Martin reviewed the recommendation/proposed action as recorded above and added that the funds be utilized for direct mental health services “of Cumberland County consumers”. Mr. Martin stated the belief is that the recommendation/proposed action are also supported by Mr. Debnam and his staff.

Chairman Faircloth requested confirmation that the fund balance would not be turned over to the Alliance but would be available for the Board of Commissioners to appropriate piecemeal. Mr. Martin confirmed that would be true.

Commissioner Keefe asked what other funds would be additional to the fund balance because at the current rate, Mental Health will be out of money shortly. Mr. Martin stated the current amount appropriated would be in addition to the fund balance. Commissioner Keefe asked if this would allow the fund balance to be able to continue to support local mental health agencies into perpetuity. Mr. Martin stated there is certainly a limit as to how long it can be continued but it will certainly continue for three years or so. Commissioner Keefe asked what would happen then. Mr. Martin stated the issue that has to be addressed is the amount of the current appropriation for the fiscal year 2014 budget. Commissioner Keefe asked how much of the county’s general fund would have to go towards mental health services each year so that it does not run out. Mr. Martin stated it would probably be \$3.5 to \$4 million.

In response to a question posed by Commissioner King, Mr. Martin stated the Board will likely continue to appropriate funds for mental health in addition to the utilization of the fund balance. Commissioner King asked if the funds would go to the Alliance for it to administer. Mr. Martin stated that would be his recommendation in order not to duplicate services for which the Alliance has already contracted to provide. Mr. Martin stated

certainly the goal is for the funds to last more than three to four years and the way that would happen is for the Board to continue to budget in its current appropriations in the general fund for mental health services and hopefully to the amount that it would cover the clinic and other programs that are run at full tax payers' expense.

MOTION: Commissioner Council moved to follow the recommendation of management regarding the fund balance.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (7-0)

## B. Future Delivery of Mental Health Services in Cumberland County

### BACKGROUND

At the Board's October 15, 2012 meeting, the County Attorney presented a comprehensive Report on the Status of the Delivery of Mental Health Services in Cumberland County.

Below is a copy of said report. Please refer to the sections on Interlocal Agreement beginning on page three (Pg. 3) and Potential Merger beginning on page four (Pg. 4). As pointed out in the County Attorney's report, mental health services will be delivered through the MCO contractual arrangement through June 30, 2013 based on the LME previously approved Interlocal Agreement.

### RECOMMENDATION / PROPOSED ACTION:

Determine what action, if any, the Board wishes to take at this time with regard to the future delivery of mental health services in Cumberland County.

\*\*\*\*\*

Mr. Martin reviewed the background information and recommendation/proposed action as recorded above and referenced the county attorney's comprehensive report on the status of the delivery of mental health services in Cumberland County as included below. Chairman Faircloth his intent with placing this item on the agenda was to reiterate to the Board that it should continue to read and reread Mr. Moorefield's analysis because it provided a map when it comes time for the Board to make a decision sometime within the next eight months as whether to merge or continue with the interlocal agreement. Chairman Faircloth stated at present, the LME is under an interlocal agreement until June 30, 2013. Mr. Debnam stated the contract is still a work in progress. Chairman Faircloth stated the early sentiment was to move towards merger but since that time, ramifications with merger have been seen and may not be palatable. Commissioner Keefe noted a planning conference would be held in January of February of 2013.

County Attorney's Report on the  
Status of the Delivery of Mental Health Services  
in Cumberland County

**FINANCIAL ISSUES:**

There are two recurring financial issues that need to be addressed regardless of the organizational structure by which mental health services are delivered. These are the continued level of current funding in the amount of approximately \$4.3 million and the approximately fund balance that has been carried forward in the county's audited financial statement as restricted for mental health. The current amount of that designated fund balance is approximately \$14 million. The reason these are significant issues is that each is subject to some degree of statutory or regulatory control.

**Continuance of Current Funding:**

G.S. 122C-115(d) states:

[c]ounties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area authority or county program.

For the past four fiscal years, the amount of the county appropriation to the mental health authority has been approximately \$4.3 million and it has all been spent. The details of how local funds have been used are provided in the comparison of FY 11 and FY 12 prepared by the mental health finance officer and attached to this memo. The transfer of the out-patient psychiatric clinic from the mental health authority to the county health department and the shift to the MCO system through a contract with Alliance have significantly impacted the Mental Health Authority's local funds budget for the current fiscal year.

County management has pulled the local funding for the clinic out of the mental health budget because it is now a county operated service and the county is responsible for any deficit in the clinic's operating budget to the same extent it is responsible for the operating deficit in any health department clinic. Mental health management reports that local funds were used to make up the clinic's operating deficit in the amount of \$2.3 million for FY 11 and \$2.8 million for FY 12. The Health Director is scheduled to report on the clinic's performance for the first quarter of operations in the Health Department at the October 15, 2012 meeting of the Board of Commissioners and this should provide a better indication of the clinic's projected use of local funds for the current fiscal year.

Local funding for fee-for-service contracts is the second largest single category of the local funds in the Mental Health Authority's budget. Mental health management reports that \$1.2 million of local funding was used for these services in FY 11 and almost \$1 million in FY 12. These are the local dollars that are paid to local vendors for the direct provision of substance abuse and developmental disability services. After the \$174,000 budget adjustment approved by the Board on October 1, 2012, the current county fiscal

year budget fully funds the amount of local dollars for these fee-for-service contracts requested by the Mental Health Authority for the first half of the fiscal year.

County management budgeted the local fee-for-service funds this way in anticipation of the MCO being funded directly the second half of the fiscal year. These funds will ultimately be paid to the same service providers contracting for Medicaid and state funded services and county management believed it to be duplicative and inefficient for dual contracts to be awarded by the MCO and the local Mental Health Authority for the same services to be provided by the same vendors. The remaining local funds were budgeted the same way for the reason that there was not a contract in place between the Mental Health Authority and Alliance prior to adoption of the budget. County management has been advised by mental health management that the contract between the Mental Health Authority and the Alliance will be finalized in November, 2012.

Mental health management regards this splitting of the former local funds budget as a reduction in the county appropriation and a violation of the statute quoted above. It is the expectation of mental health management that all local funding will be appropriated to the local Mental Health Authority for the authority to then appropriate funding back to the county for the out-patient clinic operated by the county public health department and to the contracted vendors for which the local authority is going to contract to provide MCO functions. Although there has been a reduction in the amount of local funds appropriated to the Mental Health Authority, it is because there has been a reduction in the current amount of operations and ongoing services conducted by the Mental Health Authority. The outpatient clinic used 65% of the local funds. That expenditure has been directly absorbed by the county. The fee-for-service contracts used 23% of the local funds. It is the intention of county management that those services will be continued through the MCO. The approval of the budget adjustment to fund the state funding cuts on October 1, 2012, actually increases the local funding obligation for the current fiscal year.

**Fund Balance:**

Until July 3, 2012, a single county area authority was declared by G.S.122C-116 to be a department of the county for purposes of budgeting and fiscal control. Consistently with that statute, the Division of Mental Health in the state Department of Health and Human Resources has maintained an administrative regulation since 1996 which states, “[s]ince single county area programs are considered a department of the county for budgetary and financial reporting, separate fund balances for the single county area programs are not required.” See 10A NCAC 27A.0111(a)(1). The Mental Health Authority has operated under the county’s financial policies until this fiscal year for that reason and has reported its fund balance to the state as \$0.

Under the county’s policies, the fund balance that has been carried forward as “reserved for mental health” was accumulated solely from county funds because the county policies require state and federal funds to be expended before county funds. In a meeting between county management and mental health management held on October 2, 2012, the finance officer for mental health reported for the first time that the mental health fund balance

contained a substantial amount of state funds. This presents a critically important issue because Senate Bill 191, adopted on July 3, 2012, removed the county's fiscal control from a single county authority with the result that a single county authority is fully accountable to the state. The reason this is critical is that the administrative regulation also states, "If the unrestricted fund balance is over 15 percent of the current annual budget, the Division shall recoup in an amount equal to the fund balance in excess of 15 percent." See 10A NCAC 27A.0111(a)(5). If the entire county fund balance restricted to mental health is actually subject to this regulation, the amount of that excess is approximately \$10 million. For this reason it is critical that the Mental Health Authority and the county reach an accord as to the ownership of this fund balance as soon as possible.

It is significant that this shift in financial accountability only applies to Cumberland and Johnston Counties because these are the only single county authorities remaining in the state. The fund balance is also a significant issue with respect to any potential merger of Cumberland County into a multi-county area authority because G.S. 122C-115.3(f) requires that the fund balance of an area authority which is dissolved, be placed into the fund balance of the multi-county authority which is subsequently joined.

#### THE INTERLOCAL AGREEMENT:

The interlocal agreement is the agreement among the Durham Center and the Johnston and Cumberland Mental Health Authorities to establish the MCO contracting arrangement. This interlocal agreement was assumed by the Alliance when the Durham Center merged with Wake County. This interlocal agreement establishes that the parties will further agree to a contractual arrangement for the provision of the Durham Center's MCO functions by the Cumberland and Johnston Authorities. That is the contract that is expected to be executed in November, 2012. On April 19, 2012 the Secretary of the Department of Health and Human Services approved this interlocal agreement as the method by which public mental health services will be administered in Cumberland County. The Secretary's approval states,

All the funding, including administrative funds, is sent to the Lead LME, in this case, The Durham Center. The Durham Center would then allocate funding as it sees fit and so as to be in accord with the Interlocal Agreement. The amount of funding for these four counties would not change regardless of whether Johnston and Cumberland Counties chose to dissolve their single county AA's [Area Authorities] or whether the county commissioners chose to retain their single county AA's. For the purpose of calculating the yearly allocation of State funds(IPRS), and in calculations to determine the Medicaid per member per month, the State will consider the three (3) entities of the Interlocal Agreement — Wake/Durham, Johnston and Cumberland — as a single entity.

The significance of this statement is that the State is regarding all of the three entities as a single entity whether or not the Cumberland and Johnston Authorities even remain in existence. If the Board of Commissioners wishes to pursue a merger with the Alliance or another MCO, clarification should be sought from the Secretary as to whether this agreement precludes any other form of statutorily authorized structure.

Because it is not a member of the area authority constituting the Alliance, Cumberland County does not have any legal right to representation on the governing board for the Alliance. The Alliance is requesting the resolution consenting to the alternate governing board structure because it has interpreted Senate Bill 191 to require the unanimous approval of each county board within its catchment area even though all of those counties are not constituents of the area authority. Regardless of whether or not the Alliance needs the Cumberland County Board's unanimous consent to adopt the alternate Alliance Board structure, the impact on Cumberland County is the same — neither the Cumberland County Board of Commissioners nor the Mental Health Authority has any right to appoint any board members to the Alliance. There is no detriment to Cumberland County to approve the resolution.

#### POTENTIAL MERGER:

There are statutory processes which must be followed to merge with an existing multi-county authority/MCO. Any merger must be approved by the Secretary of the Department of Health and Human Services. Since the Mental Health Authority has stated its opposition to any merger, it is unlikely that a merger could be accomplished unless the Board of Commissioners takes the first step of assuming the powers, responsibilities and duties of the Board of the Mental Health Authority pursuant to G.S. 153A-77(a). The process of assuming the powers and duties of the Mental Health Authority Board only requires a public hearing on the issue after 30 days public notice. Currently, the dissolution of the local authority and merger into a multi-county authority cannot be accomplished before the end of a fiscal year. Commencing July 1, 2013, that process can be accomplished at any time during a fiscal year. See G.S. 122C-115.3.

Merger into an existing multi-county authority does not ensure any degree of proportional representation on the governing board. Senate Bill 191 provides that an area board shall have no fewer than 11 and no more than 21 members and the process for appointing members shall ensure participation from each of the constituent counties. Thus, the number of appointees the Cumberland Board of Commissioners would make to any multi-county authority would be negotiated with the Boards of Commissioners of the other constituent counties. At least one commissioner has suggested consideration of each of the following merger possibilities:

#### Alliance Behavioral Healthcare, Inc. (Durham & Wake Counties):

Because of the existing relationship with Alliance, it is a logical choice to consider for a potential merger. With Durham having already negotiated two more seats on the governing board than held by Wake, it is the opinion of the county attorney that it will be a difficult negotiation process for Cumberland County to join the Alliance; however; it certainly should be one of the merger options to be explored because there are certainly advantages to a merger with only two existing counties. Ellen Holliman, Area Director for the Alliance, has advised county management that the Alliance Board has already voted to endorse the merger with Cumberland County and is willing to begin discussions of the process with the Boards of Commissioners of all three counties. That is a significant first step.

Johnston County:

The combined population of Johnston and Cumberland is now slightly above the 500,000 threshold that comes into effect on July 1, 2013. The association of both of these counties through the interlocal agreement with the Durham Center also makes Johnston a logical choice to consider. Mr. Debnam has advised the county attorney that he and his counterpart in Johnston have discussed merger but are of the opinion that it would not be approved by the Secretary because the population would just barely be above the threshold.

Eastpointe (Duplin, Lenoir, Sampson, Wayne, Edgecombe, Greene, Nash, Wilson, Bladen, Columbus, Robeson, Scotland Counties):

The Beacon Center and Southeastern Regional were merged into Eastpointe effective July 1, 2012, creating a twelve county authority. Robeson, with a population of 134,000, and Wayne, with 123,000, are the largest constituent counties. Three of the constituent counties border Cumberland. The Charleston Group provides legal services to both the Cumberland County Mental Health Authority and Eastpointe. These are factors that certainly make Eastpointe an option to consider; however, there have been no discussions with Eastpointe.

**CONCLUSIONS/RECOMMENDATIONS:** For the reasons discussed above, the county attorney advises and/or recommends the following:

- (1) The Board of Commissioners has no legal control over the decision of the Mental Health Authority to go forward with the contractual arrangement with the Alliance. Nor is there sufficient time for the Board of Commissioners to assume the authority of the Mental Health Board before that contract is executed. For these reasons, mental health services will be delivered by that anticipated contractual arrangement through at least the end of the current fiscal year.
- (2) Because the anticipated contractual arrangement will go forward and it does not impact Cumberland County's position on the governing board of the Alliance, there is no detriment to the county for the Board of Commissioners to approve the resolution requested by the Alliance to establish the alternate board structure and the Board should consider doing so.
- (3) The amount of the mental health fund balance that is derived from county funds must be determined and the ownership of the fund balance must be established to avoid the potential reporting of that fund balance to the state by the Mental Health Authority and to avoid it from becoming an issue with any potential merger.
- (4) If the Board of Commissioners is satisfied with the contractual arrangement with the Alliance and the resolution of the fund balance issue, the Board does not need to take further action.
- (5) If the Board of Commissioners is not satisfied with the contractual arrangement or the resolution of the fund balance issue, then the Board should first take action to

assume the duties and responsibilities of the Board of the Mental Health Authority.

- (6) If the Board of Commissioners does assume the duties and responsibilities of the Board of the Mental Health Authority, then the Board may proceed to resolve the fund balance issue and explore merger options as it deems prudent.

6. Consideration of Adoption of 2013 Board of Commissioners Regular Meeting Dates

**BACKGROUND:**

Each year the Board of Commissioners considers adoption of its regular meeting dates for the upcoming year, and each year there are exceptions that have to be considered. These exceptions include the following:

The second meeting in January (January 22, 2013) and the first meeting in September (September 3, 2013) have been moved to a Tuesday because the first Monday in these months is observed as a holiday (Martin Luther King, Jr. Birthday and Labor Day respectively).

The second meeting in February is traditionally moved to a Tuesday because the Cumberland County Schools are closed for President's Day; however, the recommendation of the Policy Committee at their November 1, 2012 meeting was for the Board of Commissioners to hold its regular meeting on Monday, February 4, 2013 rather than the following Tuesday.

Additionally, the Policy Committee at their November 1, 2012 meeting recommended that the Board of Commissioners hold its regular meeting on Tuesday, April 2, 2013 since Monday, April 1, 2013 is being observed as Easter Monday.

Lastly, the first meeting in March has been cancelled because the NACo Legislative Conference will be held March 2-6, 2013 in Washington, DC.

**RECOMMENDATION/PROPOSED ACTION:**

Consider whether to adopt the 2013 Board of Commissioners regular meeting dates as proposed.

**MOTION:** Commissioner Melvin moved to adopt the regular meeting dates as presented.

**SECOND:** Commissioner Council

**VOTE:** UNANIMOUS (7-0)

7. Nominations to Boards and Committees

- A. Air Quality Stakeholders' Committee (1 Vacancy)

Commissioner Council nominated Katy-Ann Davy.

- B. Cumberland County Mental Health, Developmental Disabilities and Substance Abuse Services Area Board (7 Vacancies)

Commissioner King nominated Jo Beth Cain, Lodies Gloston, Alejandro Vazquez, Dr. Zane Walsh, Allie Wiggins, Gladys Hunt and Liliana Parker.

8. Appointments to Boards and Committees

A. Board of Health (1 Vacancy)

Nominee:

General Public Representative: Vikki Andrews

B. Farm Advisory Board (3 Vacancies)

Nominee(s):

Farmer Positions: Wayne Beard  
Wayne Coller, Jr. (Reappointment)  
Vance Tyson

There being an equal number of vacancies and nominees,

MOTION: Commissioner Keefe moved to appoint all nominees by acclamation to their respective positions.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

9. Closed Session:
- A. CLOSED SESSION NOT NEEDED  
Economic Development Matter (s)  
Pursuant to NCGS 143-318.11(a)(4)
  - B. Attorney-Client Matter(s)  
Pursuant to NCGS 143-318.11(a)(3)
  - C. Personnel Matter(s) Pursuant  
to NCGS 143-318.11(A)(6)

MOTION: Commissioner Keefe moved to go into closed session for attorney-client matters pursuant to NCGS 143-318.11(a)(3) and for personnel matters pursuant to NCGS 143-318.11(a)(6).

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner King moved to reconvene in open session.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

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

There being no further business, the meeting adjourned at 9:25 p.m.

Approved with/without revision:

Respectfully submitted,

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Candice H. White  
Clerk to the Board