

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
OCTOBER 15, 2012 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Jimmy Keefe, Vice Chairman
Commissioner Jeannette Council (arrived 6:50 pm)
Commissioner Kenneth Edge
Commissioner Charles Evans
Commissioner Billy King (departed 10:00 pm)
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
Kelly Autry, Accountant
Tom Lloyd, Planning and Inspections Director
Thanena Wilson, Community Development Director
Buck Wilson, Public Health Director
Jeffrey Brown, County Engineer
Lisa Childers, Cumberland County Extension Director
Angela Shaver, Extension Agent, 4-H Youth Development
Will Phillips, Planning and Inspections Location Services
Mike Osborne, Planning and Inspections Location Services
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Faircloth called the meeting to order.

INVOCATION

Chairman Faircloth provided the invocation followed by the Pledge of Allegiance to the American flag.

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:

John Thompson – Mr. Thompson did not appear when his name was called.

Regina McLean – Ms. McLean did not appear when her name was called.

David Allred – Mr. Allred of CREST stated the Board of Commissioners' extension of mental health funds through the end of the year does not seem to be working. Mr. Allred stated he has not received satisfactory responses to questions he posed to Mental Health and although well versed in budget and finance, the mental health budget baffles him. Mr. Allred stated it is disturbing to find out that fund balances have been used to fund the mental health budget on an ongoing basis because obviously it cannot be sustained. Mr. Allred stated he is concerned about some of the conclusions reached by Finance Officer Amy Cannon about the expansion of the provider network and he is even more concerned about Cumberland County's association with the Alliance beginning January 2013. Mr. Allred stated in his discussion with members of the Mental Health Area Board and other professionals, he is not convinced that decision has been thoroughly examined.

Commissioner Keefe asked Mr. Allred what he was told. Mr. Allred stated he was told a large part of the money Mental Health used over the past few years came from its fund balance and it

is no longer available. Mr. Allred stated the action the Board took at its October 1, 2012 to restore some of the funds has not helped. In response to a further question from Commissioner Keefe, Mr. Allred stated the total budget for CREST is about \$700,000

Dwayne Patterson – Mr. Patterson stated he is the Executive Director of CREST and CREST only receives about \$2.00 per hour for the services it provides. Mr. Patterson stated CREST was told by Mental Health that the reason for the cut was that they did not have the money and CREST now understands that services have been taken from their consumers and given to other consumers. Mr. Patterson stated CREST does not understand why cuts were not made across the board because it should have been cut, along with other services providers, the same percentage Mental Health was cut.

Chairman Faircloth asked the amount of county funds received by CREST last year. Mr. Patterson responded CREST received \$930,000 from Mental Health.

Robert Gamble – Mr. Gamble asked where the consumers will go and what are they going to do because the fact is that most of them will outlive their parents. Mr. Gamble stated without funding for the care of these consumers, firefighters, police officers and hospitals will have to deal with these consumers who are developmentally disabled and need to be protected. Mr. Gamble read an article from the National Council of Disability and stated it is deplorable that these consumers face potential homelessness due to the lack of money and other supports.

Eva Hansen – Ms. Hansen stated she is a family member of someone receiving substance abuse services from the county and asked the Board to take more time to delve into the complex issues associated with mental health so the resolution is thoughtful and one that is supported by complete information.

Julie Griffin – Ms. Griffin spoke to services provided by the Mental Health Auxiliary and asked the Board to extend the position of the Director of Volunteer Services that is scheduled to be eliminated on December 31, 2012.

Naim Hasan – Mr. Hasan relayed information about the mission of the Black Afro African American Culture Identity Organization and asked the county for help in opening the Black Afro African American Culture Identity Center in Fayetteville.

Cumberland County Cares Award for Michael Brown, Muzzle Loader Instructor, Cumberland County Sharpshooters 4-H Club:

Commissioner Edge presented the award to Michael Brown and stated Mr. Brown has been nominated and approved by the committee because he has been involved with the club for seven years and has been a tremendous asset to the club. Commissioner Edge stated Mr. Brown has devoted his time and professionalism to the youth in the club by becoming the state muzzle loader coach for the National 4-H Shooting Sports Invitational in Nebraska. Commissioner Edge also stated through Mr. Brown's leadership, knowledge and countless hours of training and working with youth, the North Carolina 4-H Muzzle Loader team returned from Nebraska with three national team awards and two individual high score awards. Commissioner Edge stated Mr. Brown has not only used his knowledge and commitment to the club to teach safe firearms use and handling, but also to teach and build life skills in the youth.

Employee Recognition Award:

Chairman Faircloth called on James Martin, County Manager, who stated Sam Lucas, Engineering Technician II, is being honored with the Exceptional Employee Award because Sam took the initiative to identify and research the installation of sewer meters as a way to reduce the water bills for several county buildings. Mr. Martin stated the courthouse, detention center and Department of Social Services have been equipped with meters provided by PWC and installed

by county maintenance staff to save installation costs, and the Crown Coliseum is next on the list. Mr. Martin further stated so far, a total of \$4,524 has been saved in the county since August when the first meters were installed. Mr. Martin explained PWC bases its sewer rates on water consumption, and the water and sewer are billed together. Mr. Martin also explained several county buildings are equipped with cooling towers as part of their HVAC systems, and as water flows down through the cooling towers, there is a significant amount of water that evaporates and is not discharged into the sanitary sewer system. Mr. Martin stated the new sewer meters measure the actual amount of wastewater being discharged into the sewer system and PWC adjusts the utility bill based on that amount, not on water consumption. Mr. Martin explained in order to qualify for this program, the building has to utilize a certain amount of gallons of water annually. Mr. Martin stated Sam first approached PWC with this cost savings idea a few years ago but was told the county did not qualify; however, Sam did not give up and over time, PWC changed their requirements for the program. Mr. Martin further stated Sam's efforts support the county's strategic objective to strengthen the county's green and energy-efficiency initiatives and his work also supports the county's mission to provide quality services to our citizens while being fiscally responsible.

Recognition of J. Lee Warren, Jr. Inducted as President of the North Carolina Association of Register of Deeds:

Commissioner Melvin recognized Lee Warren, Cumberland County Register of Deeds, and stated at the recent 60th annual conference of the North Carolina Register of Deeds Association (NCARD), Mr. Warren was installed as the new President of NCARD. Commissioner Melvin stated Mr. Warren served as a county commissioner from 1992 until May of 2003 and served three times as Chairman of the Board. Commissioner Melvin stated in May of 2003, Mr. Warren was appointed to the office of Cumberland County Register of Deeds and was elected Register of Deeds in 2004 and re-elected in 2008 and 2012. Commissioner Melvin stated the NCARD is comprised of Registers of Deeds from throughout the state and works closely as an affiliate organization to the North Carolina Association of County Commissioners. Commissioner Melvin stated Mr. Warren and his wife Sue have five children and fourteen grandchildren.

Presentation of North Carolina Housing Finance Agency Award to Thanena Wilson, Cumberland County Community Development Director for the HOPE VI Development Project

Commissioner King recognized Thanena Wilson, Community Development Director, and stated Cumberland County received the 2012 Housing North Carolina Award for achievement in affordable housing by the North Carolina Housing Finance Agency for three apartment complexes that are part of Fayetteville's Carolina Commons. Commissioner King stated Dogwood Manor, Oak Run and Sycamore Park were honored as outstanding affordable housing that can serve as models for other communities, and four other housing developments from throughout the state were also honored. Commissioner King also stated the Housing Finance Agency recognized United Developers of Fayetteville and The Communities Group of Maryland who developed the complexes, and well as the City of Fayetteville, Fayetteville Metropolitan Housing Authority and Cumberland County who supported the project. Commissioner King further stated the winners were selected for affordability, design, contribution to the community, sustainability as affordable housing and features such as services for residents and creative partnerships. Commissioner King stated Cumberland County Community Development accepted the award on the county's behalf.

On behalf of the Board of Commissioners, Chairman Faircloth congratulated those who received awards.

Presentation by Mark Culbreth of the Cumberland County School System on the "Reading Rocks" Program – The presentation was not conducted.

James Martin, County Manager, requested the addition of an Item 3.G. for continuation of the renaming of roads that were severed by the Highway I-295 Project and an Item 10. for consideration of authorizing the Chairman to sign a deed correction to the AIT property.

1. Approval of Agenda

MOTION: Commissioner King moved to approve the agenda with the additions as requested.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

2. Consent Agenda

A. Approval of minutes for the October 1, 2012 regular Board of Commissioners meeting

B. Approval to Extinguish a Deed of Easement between Martha D. West and the County of Cumberland regarding the Averagesboro Battlefield

BACKGROUND:

A letter was received from the Averagesboro Battlefield Commission requesting the county to extinguish the easement granted to the county by Martha D. West by the instrument recorded in Book 7904 at page 225 because it is no longer needed. The easement was for the placement of historical markers but the markers have been moved out of the easement area by the Commission.

RECOMMENDATION/PROPOSED ACTION:

Authorize the chairman to execute an instrument conveying all the county's rights in the easement back to Ms. West, the grantor, thereby extinguishing the easement on her property.

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

1) Lease of the Robeson S&L Building to the FACVB and Adoption of the Resolution of Intent

BACKGROUND:

At its October 4, 2012 meeting, the Facilities Committee voted to recommend the lease of both floors of the Robeson S & L Bldg. to the FACVB pursuant to the following terms:

Premises: Robeson S & L Bldg. located on Person Street across from the Courthouse

Lessee: FACVB

Notice of Intent: will be required

Use: to conduct activities to promote tourism and the use of convention facilities in Cumberland County

Term: ten years commencing upon approval by Board of Commissioners

Renewal Terms: none

Rent: 7,049 s.f. @ 10.50 for annual rent of \$74,015

Utilities: lessee's responsibility

Regular Inside Maintenance: lessee's responsibility

Janitorial: lessee's responsibility

Maintenance of Exterior, Parking Lot and Landscaping: County's responsibility

Insurance: \$1 million general liability provided by lessee

Improvements: at lessee's cost, subject to county's approval

Early Termination Provision: none

There is a statutory requirement that the Board publish a notice of its intent to enter into this lease before voting to approve it. Final approval will be on the agenda of the November 5, 2012 meeting.

RECOMMENDATION/PROPOSED ACTION:

Adopt the following resolution:

BE IT RESOLVED that the Cumberland County Board of Commissioners finds that the real property known as the Robeson S & L Bldg. located at 245 Person Street, Fayetteville, NC, will not be needed for government purposes for the term proposed for the lease of the property to the FACVB and this Board intends to adopt a resolution at its next regular meeting to be held on November 5, 2012, approving the lease pursuant to the terms to be advertised as follows:

PUBLIC NOTICE OF PROPOSED LEASE PURSUANT TO G.S. 160A-272

TAKE NOTICE that the Cumberland County Board of Commissioners has found that the real property described herein will not be needed for government purposes for the term of the lease described herein and that the Board intends to adopt a resolution at its meeting to be held on November 5, 2012, approving the lease of the old Fayetteville S & L Bldg. located at 245 Person Street, Fayetteville, NC, to the FACVB, a non-profit corporation, for a term of 10 years commencing December 1, 2012, at an annual rental rate of \$74,015.

- 2) Lease of the J.P. Riddle Stadium to Hometown Sport Inc. (Swamp Dogs) and Adoption of Resolution of Intent

BACKGROUND:

J. P. Riddle Stadium has been leased to Hometown Sports America, Inc., (the Swampdogs) since December 23, 2004 under two lease terms of 4 years each. The current lease expires at the end of 2012. The Swampdogs wish to continue to lease the stadium under the same general terms and conditions. Due to the language in the agreements between the city and the county for the operation of the joint recreation department, a request was made to the city to clarify what the city regarded as its maintenance responsibilities for the stadium. A copy of the letter from the city attorney's office is attached.

At its October 4, 2012 meeting, the Facilities Committee voted to recommend the continued lease of the stadium to the Swampdogs with the county assuming complete responsibility for maintenance rather than continuing the maintenance agreement with the city Parks and Recreation Department, pursuant to the following terms:

Premises: J. P. Riddle Stadium

Lessee: Hometown Sports America, Inc. (the Swampdogs)

Notice of Intent: will be required

Use: as the home field for an amateur baseball club playing in the Coastal Plains League

Term: four years commencing January 1, 2013

Renewal Term: one 4-year renewal term to be exercised at the option of the club

Rent: total amount (including concession rights) is \$12,000 annually

Utilities: county to pay all utilities, including parking lot security lights, sign lighting, water for playing field and irrigation, all other water, sewer, electric and telephone with the club to reimburse flat amount of \$150 per game during the playing season and \$250 per month for the months of the off-season when no games are played

Maintenance by the Club:

- dragging and lining the field for its games and clean-up of concessions and locker areas
- HVAC system for the club office
- field tarp and batter's cage and batter's/pitcher's tunnel
- all concession equipment, including cookers, grills, coolers, freezers, drink dispensers, food and beverage handling equipment
- signage used for advertising/marketing (not the stadium identification sign)

Maintenance by the County:

- ❖ all regular maintenance
- ❖ mowing, edging, fertilizing playing surface
- ❖ maintaining parking lot, mowing and landscaping outside the ballpark
- ❖ post-game clean-up

- ❖ all electrical and mechanical systems including field lighting, parking lot lighting, scoreboard, plumbing, stadium identification sign, backstops, dugouts, foul poles, outfield fence
- ❖ all structures and buildings including the clubhouse, public restrooms, concession buildings, press box, ticket booths, bleachers and box seats

Note: The City is proposing that all maintenance will be provided by the City and will be fully funded by the County out of County's General Fund, with the County to retain all liability for maintenance performed by the City.

Janitorial: club's responsibility

Insurance: as required by the County Risk Manager

Early Termination Provision: none

There is a statutory requirement that the Board publish a notice of its intent to enter into this lease before voting to approve it. Final approval will be on the agenda of the November 5, 2012 meeting.

RECOMMENDATION/PROPOSED ACTION:

Adopt the following resolution:

BE IT RESOLVED that the Cumberland County Board of Commissioners finds that the real property known as the J. P Riddle Stadium located on Legion Road in the City of Fayetteville will not be needed for government purposes for the term proposed for the lease of the property to Hometown Sports America, Inc, (the Swampdogs) and this Board intends to adopt a resolution at its next regular meeting to be held on November 5, 2012, approving the lease pursuant to the terms to be advertised as follows:

PUBLIC NOTICE OF PROPOSED LEASE PURSUANT TO G.S. 160A-272

TAKE NOTICE that the Cumberland County Board of Commissioners has found that the real property described herein will not be needed for government purposes for the term of the lease described herein and that the Board intends to adopt a resolution at its meeting to be held on November 5, 2012, approving the lease of the J. P. Riddle Stadium on Legion Road, Fayetteville, to Hometown Sports America, Inc, (the Swampdogs) for a term of not more than 8 years commencing January 1, 2013 at an annual rental rate of \$12,000.

D. Approval of Report and Recommendation of the Cumberland County Finance Committee:

- 1) Regarding the Treatment for Effective Community Supervision (TECS)

BACKGROUND:

On June 23, 2011, House Bill 642, the "Justice Reinvestment Act of 2011" was signed into law, enacting significant changes to the criminal justice system, including the Criminal Justice Partnership Program (CJPP). Specifically, effective July 1, 2011, general statutes concerning the CJPP were abolished and the Treatment for Effective Community Supervision (TECS) Program was created in place of the CJPP. The Act also directed the NC Department of Public Safety to enter into contractual agreements through a competitive bid process to provide evidence-based programs, particularly cognitive behavioral intervention (CBI) and substance abuse (SA) programs. Consequently, the CJPP funding which fully funded our Day Reporting Center (DRC) terminated on June 30, 2012.

The County submitted and was recently awarded the bid for funding under the TECS program to continue DRC services under the new program requirements. However, the County was awarded only \$101,542 of the requested \$241,234 amount that we submitted, which raised immediate concerns about our ability to effectively administer services under the TECS program. We learned that other counties receiving bid awards were also granted funding significantly less than the amounts they requested, and as a result chose not to accept the award since it was insufficient to administer the TECS program. We

were also informed by the State that there were no provisions to request supplemental funding if the award amount granted was inadequate to sustain the program for an entire year.

It is important to emphasize that under the CJPP, the funding provided covered all of the costs of the program to include administrative, staffing, operational and other related expenses. Under the TECS program, the funding only covers reimbursement costs for service units provided to participants, which focuses purely on CBI and SA services. The expectation of the State is that the services provided be comprised of 90% CBI services and 10% SA, with very limited funding to cover administrative costs and no funding to cover other operational expenses previously funded by the CJPP.

The funding amount awarded to Cumberland County will not allow us to effectively administer a TECS program that meets the needs of our community. Callie Gardner, the DRC Director, and I contacted the State to discuss this issue and to find out what other options they had to ensure that the needs of our community were met. We further expressed the importance of having a local program to serve the best interests of our population. We were assured that there are several other local vendors who submitted bid packages that the State is confident would effectively administer the TECS program in Cumberland County.

Regrettably, based on our assessment, we have determined that Cumberland County is not the best option for providing services under the TECS program. It is therefore that we believe it would be in the best interests of our community to not accept the bid award. Consequently, the DRC would cease to exist as a County department. Fortunately, we have identified other vacant positions to transfer the three (3) employees impacted, so no County employee would lose their job should the DRC be eliminated.

It would also be our intent to pursue potential opportunities to lease the office space that would become available from the vacancy created by the DRC at the Community Corrections Center at 412 W. Russell Street. We would anticipate that due to the relationship of the TECS services to the other agencies residing in that facility, there might be interest by the agency administering the TECS program to be housed in the space utilized by the DRC.

RECOMMENDATION/PROPOSED ACTION:

County Management recommends that we not accept the bid award and allow the State to consider another vendor with the understanding that it will be offered to another local vendor.

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

1) Revised Noise Ordinance

BACKGROUND:

The current noise ordinance requires the measurement of the offending noise with a decibel meter to determine if it exceeds the threshold allowed by the ordinance. The measurements usually occur at a property line or location that is some distance from the source of the noise, and typically do not register any noise that exceeds the threshold. The Sheriff has requested that the noise ordinance be revised to eliminate the necessity for measurement by a decibel meter and simply use an "unreasonably loud" or "disturbing" standard. The proposed revisions were prepared by Ronnie Mitchell and reviewed by the County Attorney. At its October 4, 2012 meeting, the Policy Committee voted to recommend the proposed revisions.

RECOMMENDATION/PROPOSED ACTION:

County Attorney recommends the proposed revisions be adopted.

Sec. 9.5-29. - Barking dogs.

(a) It shall be unlawful for anyone to permit any dog or dogs which he or she owns,

possesses or which may be a dog or dogs over which he or she has the authority to exercise control to bark, bay, cry, howl, or make any other noise continuously and/or excessively for a period of ten minutes or more, or who barks, bays, cries, howls or makes any other noise intermittently for one-half hour or more, to the disturbance of any person at any time.

(b) It shall not be a violation of this section if, at the time the dog is barking, baying, crying, howling, or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any legitimate cause which teased or provoked the dog.

(c) Any resident, owner, occupant, or tenant of property upon which the dog is situated shall be deemed a person in charge or otherwise exercising control over such dog.

Sec. 9.5-30. - Noise from radios, tape players, loud speakers, sound amplifiers.

(a) Notwithstanding any other provision of this Article, and as a separate and alternative provision, no person shall play, use, or operate, or permit to be played, used, or operated, any radio, tape recorder, cassette player, CD player, mp-3 player, digital music player, amplifier, speaker, or other machine or device for reproducing sound, if it is located in or on any of the following:

- (1) Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
- (2) Any motor vehicle on a public street, highway, public space or within the motor vehicular area of any public or private parking lot or park;

and if, at the same time, the sound generated is audible at a distance of 30 feet from the radio, tape recorder, cassette player, or other machine or device that is producing the sound.

(b) Possession by a person or persons of any radio, tape recorder, cassette player, CD player, mp-3 player, digital music player, amplifier, speaker or other machine or device for reproducing sound, enumerated or contemplated under subsection (a) above, shall be *prima facie* evidence that such person operates, or those persons operate, the radio, tape recorder, cassette player, CD player, mp-3 player, digital music player, amplifier, speaker or other machine or device for reproducing sound.

Sec. 9.5-30.1. - Loud and disturbing noise.

(a) Notwithstanding any other provisions of this article, the creation, causing, or allowing of any unreasonably loud or disturbing noise in the county is prohibited and the determination of whether a noise is unreasonably loud or disturbing may be made without regard to measurement by a sound meter or other measurement of the decibel level.

(b) For the purposes of this section, the following definitions shall apply:

(1) Unreasonably Loud. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace, order, or calm of the area or which is obnoxious to or unreasonably disturbing to a person whose residence, work or commercial enterprise is within a reasonable proximity to the point, place or person from which such noise is emanating or emanated and the noise is of such a kind, nature, duration or extent that a reasonable person would consider the noise to be unreasonably loud or disturbing.

(2) Disturbing. Noise which is perceived by a person of reasonable and ordinary firmness and sensibilities as interrupting the normal peace, order, and calm of such person or persons or that of the proximal area or tending to annoy, disturb, or frighten such persons in such proximity to the point, place or person from which such noise is emanating or emanated, that a person of reasonable and ordinary firmness and sensibilities would reasonably be or reasonably be expected to be disturbed in his or her use, occupation, or pursuits.

(c) In determining whether a noise is unreasonably loud or disturbing, the following non-exclusive factors incident to such noise are to be considered: time of day; proximity

to residential structures; whether the noise is consistent with the nature of the surrounding area (that is, within a reasonable degree of proximity such that the noise could reasonably be expected to affect the person or persons who occupy, live or dwell in such proximity); the range or distance from the point of emanation that the sound may be unreasonably loud or disturbing; whether the noise is recurrent, repetitive, intermittent, or constant; the volume or intensity of the noise; whether the noise has been enhanced in volume or range by any type of mechanical, electronic, or other similar means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity, whether the noise is subject to being controlled without unreasonable effort or expense to the creator or person or entity causing or allowing the emanation of such noise; and any other factor which reasonably should be considered in determining whether a noise is unreasonably loud or disturbing.

(d) The following acts, among others, are declared to be loud and disturbing noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

(1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity or otherwise to be a loud or disturbing noise as defined under this ordinance;

(2) The sounding of any horn or signal device on or from any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable loud or harsh sound; or the sounding of such device for an unreasonable period of time.

(3) The playing of any radio, television set, record player, musical instrument or sound-producing or sound-amplifying device in such manner or with such volume, particularly, but not limited to, between the hours of 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, including comfort or repose of persons of reasonable and ordinary firmness and sensibilities or normal capabilities in any dwelling, motel, hotel or other type of residence.

(4) The keeping of any animal, except livestock and poultry maintained and kept consistent with the zoning applicable to the property where kept, which by causing frequent or long continued noise on a regular basis, shall disturb the comfort and repose of any person of reasonable and ordinary firmness and sensibilities in the vicinity or which may otherwise be a loud or disturbing noise as defined under this ordinance. With respect to this subsection only, if the violation continues or complaints are received from other households, the owner shall be granted ten working days to remedy and rectify the situation before issuance of a citation.

(5) The use of any automobile, motorcycle or other motor vehicle or vehicle of any kind which may be out of repair, so loaded, so equipped or operated in such a manner as to create loud grating, grinding, rattling or other noise caused by or emanating from such vehicle or its operation or which otherwise shall be or create or cause a loud or disturbing noise as defined under this ordinance.

(6) The discharge of a firearm or firearms in such a manner as to create an unreasonably loud or disturbing noise as defined or contemplated under this Article or in this section.

Sec. 9.5-30.2. - Exceptions.

The following provisions shall apply to or exempt the following under the circumstances:

(1) Noises generated, made or created during the regular operations of a manufacturing or industrial facility, defined as any premises where goods or wares are made, processed, warehoused or stored or where manufacturing is legally permitted and carried on and the owner of such manufacturing or industrial facility takes or has taken reasonable steps not to cause, create or allow unreasonably loud or disturbing noise not necessarily inherent to such

manufacturing or industrial facility.

(2) Noises generated, made or created by fire, law enforcement, ambulance, rescue or other emergency vehicles while such vehicles are engaged in their proper functions.

(3) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, athletic contests, sporting events and sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above, when such events and activities take place between the hours of 7:00 a.m. and 11:30 p.m. After 11:30 p.m., persons engaged in these events and activities who create noise which is prohibited by section 9.5-31.1 shall be in violation of this article or of such ordinance.

(4) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operated in accordance with manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.

(5) All noises coming from the normal operations of properly equipped aircraft, not including scale model aircraft.

(6) Lawnmowers and agricultural equipment and landscape maintenance equipment when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in reasonable operating condition.

(7) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.

(8) Noises resulting from the provision of government services.

(9) Noise from noisemakers and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to N.C.G.S. §14-410 *et seq.*

(10) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.

(11) Noise from the discharge of a firearm or firearms when the firearm is being used to take birds or animals pursuant to N.C. Gen. Stat. Chapter 113, Subchapter IV, or when lawfully used in defense of person or property, or when used pursuant to lawful directions of law-enforcement officers. It is further, provided, however, that a firearm discharged for the purpose of taking birds or animals within a distance of less than 500 hundred feet of a residence, business, or commercial establishment located in an established or dedicated subdivision, regardless of the zoning applicable to such dwelling or residence, or if such dwelling, residence or establishment is located within an area zoned as residential or, in the case of a business or commercial establishment within an area zoned for such purposes, shall not be exempt and any such discharge shall be subject to the provisions of Section 9-5-30.1.

Sec. 9.5-31. - Enforcement responsibility.

(a) The sheriff of the county shall have primary enforcement responsibility for sections 9.5-21 through 9.5-30 as they relate to stationary sources and as they relate to motor vehicle sources.

(b) Powers of arrest or citation. Any sheriff shall issue a citation for any violation under this article, except they may arrest for instances when:

(1) The alleged violator refuses to provide the sheriff or deputy with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or

(2) The alleged violator willfully fails or refuses to cease the violating activity after being issued a citation or after having been directed by the Sheriff or a deputy or employee of the Sheriff to desist from the creation, emanation, maintenance, or allowing of such unreasonably loud or disturbing noise or activity in violation of this Article.

Sec. 9.5-32. - Penalties for violation.

(a) *Civil penalties and remedies.* Civil penalties may be imposed as provided in this section and civil remedies may be sought as provided in this section or as may be available at law or in equity, as follows:

(1) Any person, firm or corporation violating any provision of sections 9.5-21 through 9.5-31 of this Code of Ordinances shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any subsequent violation within a 12-month period of a first violation after the effective date of this ordinance, shall subject the violator to a civil penalty of one hundred fifty dollars (\$150.00) for each subsequent violation. For purposes of determining subsequent violations within a twelve-month period, the date of the first violation from and after January 1, 2013, shall be the anniversary date from which a new 12-month period shall begin.

(2) Any person, firm, or corporation violating any provision of sections 9.5-21 through 9.5-31 shall be issued a citation which shall, among other things, state upon its face the amount of the civil penalty and that it shall be paid within 72 hours from and after such violations; notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action to be taxed in the court; and further provide that the penalty may be paid at the Cumberland County Sheriff's Office, 131 Dick Street, Fayetteville, North Carolina 28301. If the penalty prescribed in subsection (1) above is not paid within 72 hours, the County may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

(3) As an additional remedy, this article may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction to restrain or enjoin the violation. The action shall be brought in the appropriate division of the general court of justice of the county. Further, the rights and duties created or permitted under this Article may also be enforced by a civil action brought by the County or the Sheriff of the County or by any citizen of the county, seeking, among other things, abatement and restraint of the creation, causation, or allowing such unreasonably loud or disturbing noise, including injunctive relief under Rule 65 of the Rules of Civil Procedure and the recovery of any damages which a court may award. The institution of an action for equitable relief shall not relieve any party to such proceeding from any civil remedy or civil or criminal penalty prescribed or permitted for violations of this article.

(b) *Criminal penalties.* A violation of any provision of this article shall be deemed a misdemeanor punishable to the extent provided in North Carolina General Statutes, Section 14-4, and the fine for such violation shall be in a sum imposed in the discretion of the court but in an amount less than five hundred dollars (\$500.00). Any person or corporation or other legal entity violating this ordinance shall be guilty of a Class 3 misdemeanor and, as provided, shall be fined not more than five hundred dollars (\$500.00). The maximum fine, for such violation, therefore, shall be in excess of fifty dollars (\$50.00) in accordance with the provisions of N.C.G.S. § 14-4(a). Each day's continuing violation shall constitute a separate offense.

(c) *Effective date.* The provisions of this ordinance and of this part shall be 12:01 a.m. January 1, 2013.

2) Rules and Regulations of the Cumberland County Public Utilities Division

BACKGROUND:

The purpose of the Rules and Regulations is to set uniform requirements for all Cumberland County Water Districts. The Rules and Regulations establish the rate

schedule, billing policy and connections fees for the connected and non-connected users in the District. This document creates needed guidelines and procedures for both the County and customers to adhere to. Construction will begin soon in the Southpoint area and the Public Utilities Division would like the Rules and Regulations to be established prior to construction, in order for customers to project the cost of their future water bills. It is my feeling that having the Rules and Regulations in place prior to construction, will certainly allow the potential customers to make a more informed decision about connecting to the system.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management and Policy Committee recommend that the Board of Commissioners approve the Rules and Regulations of the Cumberland County Public Utilities Division.

**RULES AND REGULATIONS
OF THE
CUMBERLAND COUNTY PUBLIC UTILITIES DIVISION
CUMBERLAND COUNTY, NORTH CAROLINA**

Classification of Service

All services are classified under one of two categories:

Residential- Includes all ¾” and 1” residential meters.

Commercial- Includes all businesses regardless of meter size, and single-family or multi-family residential properties with meter size greater than 1”.

II. Rate Schedule and Tap-On Fees

(A) Rate Schedule

All customers will be billed at the rate currently in effect and approved by the Board of Commissioners of Cumberland County. Said rate schedule is attached hereto as Appendix “A” and is incorporated herein by reference.

(B) Tap-On Fees

All customers will be charged the tap-on fee currently in effect at the time of application for water service. Tap-on fees are approved by the County Commissioners of Cumberland County. Said tap-on fee schedule is attached hereto as Appendix “B” and is incorporated herein by reference.

(C) Commercial and Rental properties do not qualify for the exceptions and exemptions listed in Appendix A and B.

III. Sprinkler Service for Fire Protection

Connection to the system for service to sprinkler systems to provide fire protection may be secured upon application of the customer and upon payment of all charges involved in making the connection. For sprinkler connections to the system the customer shall pay annual charges based on the following schedule:

<u>SIZE</u>	<u>ESTABLISHED FEE</u>
6 inch sprinkler connection	\$250.00
8 inch sprinkler connection	\$400.00
12 inch sprinkler connection	\$700.00

No service other than for fire protection shall be tapped on to or taken from a sprinkler system.

IV. Multiple Unit Connections

General practice dictates one meter per living unit and water is used for that unit only. Specifically,

Single Family Homes (One living unit per structure):

One meter per living unit.

Duplexes/Apartments (Two or more living units per structure):

One meter per living unit. Meters shall be placed closely together and each meter will represent a separate and individual account.

Subdivisions (Two or more residences within a developed project):

One meter per living unit. Plans must be submitted to the county for approval and must be shown to be compatible with the plans for the ultimate development of the County's utility system. (See section XIII-Extensions)

Mobile Home Parks:

Park owners have two options:

- a. Trailers will not be individually metered and billed. County will install a meter (size to be determined by Park Owner and Utilities Director) at street. County will read meter and bill accordingly. Park Owner will be responsible for lines, maintenance, and consumption on owner's side of the meter.
- b. Trailers may be individually metered and must follow the same criteria as subdivisions. See Section XIII-Extensions.

Multiple use of a meter will not be allowed except where a customer shall make a special application for permit for such installation and each such permit shall be subject to review and approval by the Utilities Director and the County Manager. The County reserves the right to size the meter for multiple unit connections.

V. Application for Services

Customers may make application for service in person at the Cumberland County Public Utilities Division.

Service will be supplied only to those who provide proper documentation, pay all applicable fees, execute a Water User Agreement, and make the deposit required.

Cumberland County may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location. (All outstanding balances, including late fees and reconnect fees must be paid in full.)

Cumberland County may reject any application for service not available under a standard rate or which may affect the supply of service to other customers or for other good and sufficient reasons, in such case the tap-on fee will be refunded.

VI. Deposit

All residential water customers will be required to make a minimum deposit of \$100.00.

All commercial water customers will be required to make a deposit equal to the value of three months estimated usage of water, but not less than \$100.00.

The individual, partnership and/or corporation in whose name the deposit is made shall be responsible for all bills incurred in connection with the service furnished.

The deposit shall be held by the County and the customer shall not be entitled to any interest earnings upon refund of the deposit.

A separate deposit is required for each meter installed.

No refunds will be authorized without request for discontinuance of service and all bills are paid for consumption through date of discontinuance.

Relocation to a new property within the Cumberland County Water and Sewer Service District by an existing customer shall not be considered a discontinuation of service. In the event of a re-location, a customer with a good credit history shall have his or her original deposit transferred to the new account. At that point the customer will be billed within the next billing cycle schedule established by the department and the bill will include both the bill representing the ending balance on the original account and the bill representing the balance on the new account. In the event the customer relocates from a property with water service only to a property with water and sewer service the customer shall pay an additional \$50.00 sewer deposit. In the event a customer relocates from a property with water and sewer services to a property with water only, the department shall refund the portion of the deposit designated for sewer. In the event that a customer with a poor credit history and an outstanding overdue balance relocates, the customer will be required to pay the outstanding overdue balance and any additional deposits or fees established herein.

VII. Minimum Charge

The minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter requires a separate account, and each account shall cover a separate and individual meter.

Water furnished for a given installation shall be used for that installation only. Each customer's service must be separately metered at a single delivery and metering point. Each commercial unit used for businesses purposes shall have a separate meter.

All commercial use for business purposes, shall be metered separately from any residential use, and vice-versa, whether now in service or to be installed in the future.

VIII. Meter Reading-Billing-Collecting

Meters will be read and bills rendered as follows:

Meters will be read once per month and bills mailed once per month; but the County reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

Bills for water will be figured in accordance with the County's published rate schedule then in effect and will be based on the water consumed for the period by the meter readings.

Charge for service commences when meter is installed and the County's connection made, whether used or not. If not used, the customer will be charged the minimum rate each month.

Readings from different meters will not be combined for billing, even if said meters may be for the same or different premises, or for the same or different customer, or for the same or different services.

Bills are due within 28 days of meter reading and become delinquent thereafter, whereupon the late penalty currently in effect will be added to the account. If bill is not paid within 42 days from date rendered, the County may discontinue service.

Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

IX. Access to Premises

Duly authorized agents of the County shall have access at all reasonable hours to the premises of the customer for the purpose of installing or removing County property, inspecting piping, reading or testing meters, or for any other purpose in connection with the County's service and facilities.

Each customer shall grant or convey or shall cause to be granted or conveyed to the County a perpetual easement and right of way across any property owned or controlled by the customer wherever said perpetual easement and right of way is necessary for the County water facilities and lines in order to furnish service to the customer.

X. Change of Occupancy

Not less than three days' notice must be given in person or in writing at the Utilities Division to discontinue service for a change of occupancy.

The outgoing party shall be responsible for all water consumed up to the time of departure, or the time specified for departure, whichever period is longer.

XI. Suspension of Service

When services are discontinued and all bills are paid, the deposit will be refunded.

Upon discontinuance for non-payment of bills, the deposit will be applied by the County toward settlement of the account. Any balance will be refunded to the customer; but if the deposit is not sufficient to cover the bill, the County may proceed to collect the balance in the usual way provided by law for the collection of debts.

Service discontinued for non-payment of bills will be restored only after bills are paid in full, redeposit made, and a reconnect charge paid for each meter reconnected.

The County reserves the right to discontinue its service without notice for the following additional reasons:

- (a) To prevent fraud or abuse
- (b) Customer's willful disregard of County's rules
- (c) Emergency repairs
- (d) Insufficiency of supply due to circumstances beyond the County's control.
- (e) Legal procedures
- (f) Direction of public authorities
- (g) Strikes, riot, fire, flood, accident or any unavoidable cause.

The County may, in addition to prosecution by law under N.C.G.S. 14-151.1, permanently refuse service to any customer who tampers with a meter or other measuring device.

The County reserves the right to remove the meter from a discontinued service, requiring a complete reconnection with applicable tap-on fee.

XII. Complaints and Adjustments

If the customer believes his bill to be in error, he shall present his claim, in person, at the Utilities Department, before the bill becomes delinquent.

Such claim if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The customer may pay such bill under protest and said payment shall not prejudice his claim.

The customer is entitled to be heard by a designated County employee (at any time prior to termination of service) at a specified time and address if there is any question about the

accuracy or legitimacy of the customer's meter readings or billing. See Appendix "C" for the Adjustment Policy.

The County will make special meter readings at the request of the customer for a "Special Meter Reading Fee" provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.

Meters will be tested at the written request of the customer upon payment to the County of the actual cost to the County of making the test provided; however, that if the meter is found to over-register beyond five percent (5%) of the correct volume, no charge will be made.

If the seal of a meter is broken by anyone other than the County's representative or if the meter fails to register correctly or is stopped for any cause, the customer shall pay an amount estimated from the record of his previous bills and/or from other proper data.

XIII. Extensions

Extensions to the county water system may be allowed under the following conditions:

- (1) Extensions will be allowed (or undertaken) after they are shown to conform to County standards and after the projected extension(s) are shown to be compatible with the plans for the ultimate development of the County.
- (2) Proposed extensions shall be designed to provide orderly growth of the County.
- (3) Proposed extensions must be determined to be feasible from the stand-point of maintaining a self-supporting water system.
- (4) Extensions may be made by the County only when funds are available and then only upon the approval and direction of the Board of County Commissioners.
- (5) Extensions may be allowed by individuals, firms, partnerships or developers at their expense or under an agreed upon shared cost with the County under the following conditions:
 - (a) County construction standards are met and plans approved by the Board of County Commissioners as set out under sub-articles 1, 2, and 3 above.
 - (b) All installations shall be made according to specifications of County, including line sizes and their location, grade, and materials, etc.
 - (c) All extensions will be designed and constructed in accordance with all applicable North Carolina state laws.
 - (d) All lines constructed and connected with the facilities of the County under these policies shall become the property of the County upon their completion and connection to the County system. The County shall have exclusive control of all such lines and will assume responsibility for maintenance, repair, and operation.

XIV. Cumberland County Responsibility and Liability

Cumberland County shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served, and for which a tap-on fee then in effect for each size of meter will be charged.

Cumberland County reserves the right to require payment for any service line extending more than immediately adjacent and parallel to the main at the actual cost of installation of the added line; this in addition to the tap-on fee hereto specified.

The County shall install its meter at the property or in a location mutually agreed upon with the property owner.

When two or more meters are to be installed on the same property for different customers, they shall be closely grouped and each clearly designated to which service it applies.

Cumberland County's responsibility for maintenance ends at the meter.

Cumberland County reserves the right to refuse service unless the customer's lines and/or piping are installed in such a manner that prevents cross-connection or backflow.

The County shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the customer's premises, unless such damage results directly from negligence on the part of the County. The County shall not be responsible for the negligence of third persons or forces beyond the control of the County resulting in any interruption of service, or from interruption of service to make repairs and/or other connections.

When possible, the customer will be notified of any anticipated interruption of service.

XV. Customer's Responsibility

Piping on the customer's premises must be arranged so that the connections are conveniently located with respect to the County's lines or mains.

If the arrangement of the customer's piping requires the County to provide multiple meters to provide service, each meter placed will be considered a separate and individual account.

Where a meter is placed on the premises of a customer by mutual agreement, a suitable place shall be provided and accessible at all times to a meter reader.

The customer shall furnish and maintain a pressure reducing valve on their side of the meter.

The customer shall furnish and maintain a private cutoff valve on their side of the meter; the County will provide likewise on its side of the meter.

The customer's piping and apparatus shall be installed and maintained by the customer at their expense in a safe and efficient manner in accordance with the County's rules and regulations and in full compliance with the sanitary regulations of the state.

The customer shall guarantee proper protection for the County's property placed on the customer's premises and shall permit access to it only by authorized representatives of the County.

In the event that any loss or damage to the property of the County or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, his/her agents or employees, the cost of the necessary repairs or replacements shall be paid by the customer to the County; any liability otherwise resulting shall be assumed by the customer.

The amount of such loss or damage or the cost of repairs shall be added to the customer's bill; and if not paid, services may be discontinued by the County.

XVI. Prohibited Activities:

A customer shall not:

- (1) Supply or sell water from the County's system to other persons or carry water away from any hydrant or other such public outlet;
- (2) Manipulate, tamper with, or harm in any manner whatsoever any water line, main, or appurtenance or any other part of the water system; per G.S. 14-151.1
- (3) Tamper with the water meter so as to alter the true reading for the amount of water consumed; per G.S. 14-151.1
- (4) Attach or cause to be attached any connection to the water line before the water meter; and
- (5) Knowingly make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under the Rules and Regulations.

XVII. Abridgement or Modification of Rules

No promise, agreement, or representation of any employee of the County shall be binding upon the County except as it shall have been agreed upon in writing and signed and accepted by the County Board of Commissioners through proper governmental channels.

No modification of rates or any of the rules and regulations shall be made by any agent of the County. This can be done only by the Cumberland County Board of Commissioners.

All prices included in these rules and regulations or their appendices are subject to change at any time, when deemed necessary, by action of the Cumberland County Board of Commissioners.

XVIII. Notification and Connection

Notification:

Cumberland County will notify water users when the lines in their area have been accepted by the County and are available for service.

Connection:

After notification, a connection can be made between the structure and the meter. The Customer will be required to obtain a permit from the Cumberland County Inspections Department. The Cumberland County Inspections Department will then make a physical inspection of the connection and service line. Upon approval, the County will turn on the water connections between the meter and the water user's plumbing system. The user's plumbing system shall meet all applicable requirements of the State Building Code (as it relates to plumbing) including the use of 160-psi service line at a minimum. An approved cut-off valve shall be installed between the meter and the structure. Each user's existing well must be physically disconnected from the County system. State law prohibits the installation of water lines through a septic tank drain field or within ten feet of a septic tank. Water shall not be turned on by anyone other than the County.

XIX. Property Protection

By applying for and receiving water service from Cumberland County, a customer agrees to comply with all applicable county rules, regulations and policies. Each service

constitutes a separate service and agreement even if a single customer receives multiple services. The customer agrees to pay for their billing in a timely manner and that the service(s) should have a protective device on it to protect the appliances and property of the customer.

It is the further responsibility of the customer to install a proper water pressure control device to prevent too much pressure from entering the plumbing lines. (There is a minimum pressure of 30 PSI but no maximum pressure supply.)

XX. Adoption of Rules:

Until further notice of the Board of Commissioners of the County of Cumberland, the rules and regulations hereinabove set out, are hereby adopted as of the date hereof to become effective on and after _____.

APPENDIX "A"

AVAILABILITY FEE

Availability Fee – Non-connected customers \$12.00
 (As referenced in the Cumberland County Water Use Ordinance)

WATER RATE SCHEDULE

RESIDENTIAL RATE	MONTHLY CHARGE
First 2,000 Gallons	\$22.00 Minimum
Next 4,000 Gallons	\$11.00 per 1,000 Gallons
Next 2,000 Gallons	\$12.00 per 1,000 Gallons
Next 2,000 Gallons	\$13.00 per 1,000 Gallons
Next 40,000 Gallons	\$14.00 per 1,000 Gallons
Next 50,000 Gallons	\$15.00 per 1,000 Gallons
All Over 100,000 Gallons	\$16.00 per 1,000 Gallons

COMMERCIAL RATE	MONTHLY CHARGE
User Fee:	\$33.50
First 50,000 Gallons:	\$13.00 per 1,000 Gallons
Next 50,000 Gallons:	\$14.00 per 1,000 Gallons
Next 900,000 Gallons:	\$15.00 per 1,000 Gallons
All Over 1,000,000 Gallons	\$16.00 per 1,000 Gallons

OTHER FEES

Late Penalty	\$10.00
Activation/Transfer Fee (One-time fee for creating new account or Transferring service to another location)	\$20.00
Reconnect Fee- Business hours (Administrative charge to re-establish service after discontinuance for non-payment)	\$25.00
After-Hours Reconnect Fee (Available until 9:00 pm)	\$75.00
Special Meter Reading (Performed at request of customer; no charge if initial reading was over-read)	\$10.00

Meter Verification Fee (Meter removed and taken to testing facility; performed at written request of customer; no charge if meter over-registers by more than 5%)	\$50.00
Flow Test	\$50.00
*Returned Check Fee	\$25.00
	+ Amount of check - CASH, MONEY ORDER OR CERTIFIED CHECK ONLY

APPENDIX "B"

TAP FEE SCHEDULE

TAP-ON FEES (To Include Irrigation)

(1) Construction-Phase Rate:

The tap-on fee during the construction of the water distribution system will be as follows:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$50.00
1 inch	\$100.00
Larger than 1"	Standard Rate

(2) Future Services:

Customers not wishing an immediate connection to the water system, but who wish to take advantage of the discounted tap-on fees available during the construction phase may sign up for a "future service" tap at the following rates:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$150.00
1 inch	\$250.00
Larger than 1"	Standard Rate

Future Service rates apply only during the construction phase of the distribution system. With a "Future Service" tap, a meter is not installed until requested by the customer.

(3) Water Laterals

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to any installation of laterals to be connected to the water system. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

(4) Main Extension Charges:

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to extending the main in the water district. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

BILLING POLICY

In order to insure that all customers have a thorough understanding of our policies and procedures for water billing and collections, the Public Utilities Division has prepared the following information. A complete set of the Rules and Regulations for the Public Utilities Division is available upon request.

Meter Reading

Meters are to be read every 28 to 30 days.

Billing

Bills are calculated and mailed as soon as possible after meters are read.

The Public Utilities Division reserves the right to vary billing dates as needed. If you do not receive your bill, please call the Public Utilities Division. We will verify your address and tell you how much you owe. If you desire a duplicate bill, we will mail one to you.

Please make sure that we have your correct address, so that you will receive your bill in a timely manner. *Failure to receive your bill will not prevent such bill from becoming delinquent.*

Payments

Remit payments to the Public Utilities Division, located in the Historic Courthouse at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. You may pay in the office, or you may mail your payment to Public Utilities Division, P.O. Box 1829, Fayetteville, NC 28302.

All returned checks are subject to a \$25.00 collection charge.

Late Fees

If payment is not received within 28 days of the billing date, which is shown on your bill, a \$10.00 late fee will be added to your account.

Cutoffs

Service will be disconnected if payment of your bill is not received in the Public Utilities Division office within 42 days of the billing date. It is not our policy to call customers prior to disconnection of service. In order to maintain fairness to all our customers, we cannot give extensions on bills.

The cutoff list will be generated at 5:01 pm on the day prior to disconnection. If your account is on the cutoff list you will be charged a \$25.00 reconnect fee in addition to the total amount due shown on your bill. This reconnect fee applies to all accounts shown on the cutoff list. Reconnects after hours are available from 5:00 pm until 9:00 pm for a fee of \$75.00.

Questions

If you have any questions regarding billing or service, please call the Public Utilities Division staff at (910) 678-7682.

APPENDIX "C"

ADJUSTMENT POLICY

Purpose:

Circumstance may arise where high water consumption occurs due to events beyond a customer's control. Upon a customer's request, Cumberland County Public Utilities will review the facts and consider a billing adjustment on a case-by case basis. Adjustments are limited to one occurrence in a twelve month period per customer account or location. Adjustment requests shall be submitted to the Public Utilities staff at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. Adjustments shall be made as follows:

To qualify:

1. The customer must have been out of town at the time of the leak or the leak must not have been readily evident to a reasonable person (ex.: underground [excluding irrigation], inside a wall or concealed location, crawlspace.).
2. Basic facility fees (flat rate, O&M rider, RSF) still apply.

3. Proper documentation that the leak has been repaired or corrected must accompany the adjustment request (receipt for parts, contractors invoice, etc.).
4. Water only customers- The water consumption must be greater than 200% of the customers previous three month average.

Calculation:

If the conditions above are met, the bill will be reduced to 200% of the average consumption plus 1/3 of the overage. Example: When a customer has an average consumption of 5,000gal and because of a qualifying leak has a consumption of 13,000gal, the bill will be calculated at 200% of 5,000gal = 10,000gal + 1,000gal (1/3 of 3000) = 11,000gal adjusted bill. The adjusted amount over 200% will be billed at the lowest tiered rate.

Other adjustments:

The utilities management staff, at their discretion, shall be authorized to adjust late fees and penalties for customers who are in good standing and have no history of late payments or disconnects.

Adjustments to commercial accounts:

Adjustments must be approved by the Engineering and Infrastructure Director.

Exclusions:

Adjustments will not be made for water loss associated with irrigation systems.
Adjustments will apply to no more than 2 consecutive billing cycles.
Premises left abandoned or vacated without reasonable care for the plumbing system.
Homes under construction or renovation.

IMPORTANT NOTE: A large leak may cost a customer thousands of dollars, whereas a smaller leak may be less than a \$100. A leak adjustment may be requested only once within a 12 month period. If you request an adjustment for any size leak, you will be ineligible for another adjustment for the next 12 months regardless of the size of the future leak.

- F. Approval of a Proclamation Proclaiming October 24, 2012 as “Ammie McRae Jenkins Appreciation Day” for her service to our State and our County

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation
Celebrating Ammie McRae Jenkins

WHEREAS, African-Americans are a vital part of North Carolina’s life, and men and women of all races have contributed significantly to the lives and experiences of African-Americans in North Carolina, supporting efforts to ensure equality and opportunity for all; and

WHEREAS, there is a need for our children and future generations to honor these remarkable individuals while learning more about and celebrating their achievements; and

WHEREAS, AT&T, along with the support of partner organizations, has developed The Heritage Calendar: Celebrating the North Carolina African-American Experience, which will spotlight individuals whose commitment and dedication have enriched the diversity fabric of this State; and

WHEREAS, among the inaugural honorees listed on this calendar will be Ammie McRae Jenkins, who has significant ties to Cumberland County; and

WHEREAS, Ammie McRae Jenkins founded the Sandhills Family Heritage Association (SFHA) in Cumberland County in 2001 to address and rectify the issue of other African-Americans who lived near her ancestral home and lost their land through racial intimidation; and

WHEREAS, the SFHA under Jenkins' leadership has implemented several successful programs including community education and a farmer's market, with the knowledge of community elders and the hard work of volunteers; and

NOW, THEREFORE, we, the Cumberland County Board of Commissioners, do hereby applaud the service of Ammie McRae Jenkins to our state and our county, and proudly proclaim October 24, 2012 as "Ammie McRae Jenkins Appreciation Day."

Adopted this 15th day of October, 2012.

- G. Approval of a Proclamation Proclaiming the Week of October 22-27, 2012 as "Red Ribbon Week" in Cumberland County

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION
2012 National Red Ribbon Campaign

WHEREAS, gun violence, alcohol, and drug abuse have been identified as significant dangers to young people and our communities today; and

WHEREAS, violence and substance abuse among the nation's youth have emerged as some of the nation's greatest threats to a healthy lifestyle among our young people; and

WHEREAS, the National Family Partnership for a Drug-free North Carolina and the C.A.R.E.S Coalition (Coalition for Awareness, Resources, and Education of Substances) are sponsoring the local Red Ribbon Campaign, October 22-27, 2012, which offers community members the opportunity to display their commitment to a drug-free lifestyle by wearing a red ribbon; and

WHEREAS, Local government, businesses, law enforcement, school systems, citizens, and students will express their commitment to a lifestyle free of youth substance usage by signing the Red Ribbon Pledge and by wearing a red ribbon during the campaign.

NOW, THEREFORE, the Board of Commissioners of Cumberland County PROCLAIMS the week of October 22-27, 2012 "Red Ribbon Week" and encourages all citizens to take active roles in preventing substance abuse and gun violence among youth in our communities during these dates and indeed, throughout the year.

Adopted this 15th day of October, 2012.

- H. Budget Revisions:

- (1) General Government Other

Revision in the amount of \$81,840 to appropriate fund balance to re-budget unexpended Public Response funds from FY12. (B13-131) Funding Source – General Fund Fund Balance

- (2) Health

- a. Family Planning Clinic - Revision in the amount of \$39,584 to reallocate revenue due to an unanticipated reduction in state funding. (B13-124) Funding Source – Reallocation in Budgeted Revenues
- b. Health Education - Revision in the amount of \$5,000 to recognize the Wolfe Mini Grant that will fund training for health department staff to implement the community-based volunteer program- The Friendship Project. The goal is to increase the likelihood of pregnant women having a full-term, healthy pregnancy. (B13-126) Funding Source – Grant

- c. Bioterrorism Preparedness & Response – Revision in the amount of \$30,023 to budget additional state funding. (B13-125) Funding Source – State

(3) Child Support Enforcement

Revision in the total amount of \$204,750 to budget Federal revenue of \$135,135 and fund balance appropriated of \$69,615 to fund Clerk of Court filing fees on behalf of Child Support clients. (B13-134) Funding Source – Federal and Fund Balance Appropriated

(4) Sheriff- Federal Forfeiture

Revision in the amount of \$150,000 to appropriate federal forfeiture fund balance to purchase five patrol vehicles. (B13-135) Funding Source – Federal Forfeiture Fund Balance Appropriated

(5) Eastover Sanitary District Phase II/Eastover Sanitary District General Fund

Revision in the net amount of \$18,318 to facilitate the close out of the Eastover Sanitary District Phase II capital project by recognizing additional revenue of \$18,318 and reallocating expenses. Remaining funds of \$44,669 will be transferred to the Eastover Sanitary District's General Fund. (B13-132 and B13-132A) Funding Source – Fees

MOTION: Commissioner King moved to approve consent Items 2.A. – 2.H.(5).
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

3. Public Hearings

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

Uncontested Rezoning Case

- A. Case P12-51: Rezoning of 20.38+/- acres from CD Conservancy and A1 Agricultural to A1 Agricultural or to a more restrictive zoning district; located at 1554 and 1622 Yarborough Road; submitted by James S. Stewart Sr., Lenise E. Stewart, James S. Stewart Jr. and William T. Stewart (owners).

RECOMMENDATION: Members present at the September 18, 2012 meeting of the Joint Planning Board unanimously recommended adoption and approval of consistency and reasonableness statements and to approve A1 Agricultural for that portion of the subject property located outside the Special Flood Hazard Area (SFHA) and CD Conservancy for all area within the SFHA. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings.

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 recommendation of the Joint Planning Board.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

Contested Rezoning Case

B. Case P12-28: Rezoning of 1.00+/- acre from RR Rural Residential to C2(P) Planned Service and Retail or to a more restrictive zoning district, located at 4446 Clinton Road, submitted by Janice Ivey and Tommy D. Faircloth (owners) and Garris Neil Yarborough, Esq.

RECOMMENDATION: Members present at the June 19, 2012 meeting of the Joint Planning Board recommended denial of the consistency and reasonableness statements agreeing that the request is not reasonable and will not be in harmony with the surrounding area. The motion passed with Mr. Clark voting in opposition.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd stated the Joint Planning Board recommended denial with the main issue being school traffic on Clinton Road.

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:

Tommy D. Faircloth – Mr. Faircloth appeared as a proponent and stated he has been to the Joint Planning Board twice before and was denied both times. Mr. Faircloth stated the corner properties near his property have been approved for commercial development and he feels discriminated against. Mr. Faircloth stated he is asking for the same opportunity that property owners on the other corners have received.

G. Neil Yarborough – Mr. Yarborough appeared as a proponent representing the property owners and asked the Board to follow the recommendation of planning staff for C2(P) zoning because it was consistent with the 2030 Growth Vision Plan which calls for community growth at this location. With regard to traffic concerns, Mr. Yarborough stated sometimes growth comes before road infrastructure. Mr. Yarborough also stated the subject property is adjacent to commercial property, and is surrounded by the residences of Mr. Faircloth and Mr. Horne's who are not in opposition to the rezoning. Mr. Yarborough further stated planning staff recommended C2(P) zoning due to the recent rezonings in the general area and public utilities are available to the subject property.

Mary W. Williams – Ms. Williams appeared as an opponent and stated the rezoning is not in the best interest of the area due to a misalignment of the roads which creates a bad traffic pattern and traffic backup because of area schools. Ms. Williams stated there is no plan to align the roads to decrease the traffic difficulties and the selling of alcohol and tobacco at a store that could possibly be located next to the junior high school is not in the best interest of young people. Ms. Williams also stated noise and lights from a gas station that could possibly be constructed would pose concerns for those around it.

Chairman Faircloth closed the public hearing.

Chairman Faircloth recognized Mr. Faircloth who stated rezoning the property for commercial uses would relieve some of the traffic concerns because turning lanes would have to be constructed. At the request of Commissioner Council, Mr. Lloyd explained the 2030 Growth Vision Plan for the general area.

MOTION: Commissioner Melvin moved to approve the recommendation of planning staff for C2(P) Planned Service and Retail.

SECOND: Commissioner King

DISCUSSION: Commissioner Edge stated the surrounding zoning is for conditional use, residential use and C1(P), and he was not aware of any commercial development in the area. Commissioner Edge stated the surrounding land uses are for farmland and residential and he did not think the rezoning would be appropriate because of the traffic issues.

VOTE: PASSED (6-1) (Commissioner King, Evans, Keefe, Faircloth, Council and Melvin voted in favor; Commissioner Edge voted in opposition)

Contested Conditional Zoning Case

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

RECOMMENDATION: Members present at the May 15, 2012 meeting of the Joint Planning Board recommended adoption and approval of the inconsistency and unreasonableness statements agreeing that the request is not reasonable and will not be in harmony with the surrounding area and that the request for C(P)/CZ for a convenience store, restaurant and for profit indoor recreation be denied. The motion passed unanimously.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd stated the Joint Planning Board recommended denial of Case P12-26 because the subject property was too close to another property with the same use under RR/CU zoning. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd stated until such time as the Board takes action on the zoning code text amendment that will make internet café/video gaming a permitted use under the C(P) Planned Commercial district, the request for the property will have to be classified as indoor recreation for profit. Mr. Lloyd stated the Board initially heard the case on August 20, 2012 and asked that the case be brought back when the text amendment to the zoning ordinance was presented. Mr. Lloyd stated the text amendment will require a 2,500 separation and the current separation is about 1,000 feet. Mr. Lloyd stated should the Board wish to approve Case P12-26 to add additional internet gaming machines to the existing store, it will need to do so prior to approving the text amendment. Mr. Lloyd responded to questions.

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.

Mr. Lloyd stated the owner Dharmesh Patel was present but had arrived too late to sign up as a speaker. Chairman Faircloth recognized Mr. Patel. In response to a

question posed by Commissioner King, Mr. Patel stated he has conducted his current operation for about four years and is seeking the rezoning in order to come into compliance because someone with the county told him he needed to apply for a conditional zoning district. Mr. Patel stated he has a fifteen year lease and does not want to increase anything but be allowed to continue with his current operation. Commissioner Keefe asked Mr. Patel whether he had seen the proposed text amendment and how many hours he was open. Mr. Patel stated he had not seen the proposed text amendment and his store is not opened twenty-four hours and he has no plans to extend the hours.

Chairman asked whether there were any speakers in opposition. None appeared.

Chairman Faircloth closed the public hearing.

MOTION: Commissioner Keefe recommended approval of C(P) Planned Commercial/ CZ Conditional Zoning District for a convenience store, restaurant and for profit indoor recreation/amusement.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

Zoning Ordinance Text Amendments

D. Case P12-33: Revision and amendment to the Cumberland County Zoning Ordinance amending Article II, Interpretations, Calculations, and Definitions, Section 203 Definitions of Specific Terms and Words; amending Article IV, Permitted, Conditional and Special Uses, Section 403, Use Matrix by inserting *internet café/video gaming* as a permitted use in the C(P) Planned Commercial district column; amending Article IX, Individual Uses, by creating Section 911.1, entitled: Internet Café/Video Gaming and listing specific development standards; and updating the table of contents as appropriate.

RECOMMENDATION: Members present at the September 18, 2012 meeting of the Joint Planning Board recommended adoption and approval of the text amendment as submitted and recommended by the Land Use Codes Committee. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, highlighted the standards that would be applied to internet café/video gaming under the proposed text amendment and stated such establishments shall not be located within 500 feet of any areas zoned for residential use or properties containing residential units, religious worship activity, nursery school, day care facility, educational facility, any public or non-profit recreation or amusement and any public or private school and shall be located no closer than 2,500 feet from another internet café/video gaming facility. Mr. Lloyd stated at its August 20, 2012 meeting the Board asked for recommendations for hours of operation and the Joint Planning Board incorporated into the text amendment that there will be no alcohol sales between 2:00 am to 7:00 am. Mr. Lloyd stated there are also provisions in the text amendment for one parking space per machine.

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 stated closing convenient stores between 2:00 am to 7:00 am or requiring them to cordon off their gaming machines will create an enforcement issue. Commissioner Keefe asked whether there was a way to differentiate between

convenience stores with gaming machines and internet café/video gaming operations. Discussion followed.

MOTION: Commissioner Keefe moved to approve the text amendment in Case P12-33 and remove the closing restrictions on facilities.
SECOND: Commissioner Evans
VOTE: UNANIMOUS (7-0)

E. Case P12-61: Revision and amendment to the Cumberland County Zoning Ordinance amending Article II, Interpretations, Calculations and Definitions; Section 203, Definition of Specific Terms and Words, specifically: Kennel; Article IV, Permitted, Conditional, and Special Uses, Section 403, Kennel Operations; and Article IX, Individual Uses; Section 912, Kennel Operations; repealing provisions authorizing approval of the Temporary Housing/Boarding of Dogs in Residential Districts and updating the Table of Contents if appropriate.

RECOMMENDATION: Members present at the September 18, 2012 meeting of the Joint Planning Board recommended adoption and approval of the text amendment as submitted and recommended by the Land Use Codes Committee. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, stated the amendment proposes to repeal provisions currently included in the county zoning ordinance that conflict with the animal control ordinance. Mr. Lloyd stated included in the revision are provisions prohibiting more than three dogs, five months of age or older to be kept, harbored or maintained at any premises located in any area with a zoning classification for single-family residential lots of 20,000 square feet or less. Mr. Lloyd responded to questions. Commissioner Keefe stated there is a fine line between adopting ordinances and being reasonable, and the amendment as proposed takes away the subjectivity of the Planning Director to make decisions.

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

Chairman Faircloth opened the public hearing.

The Clerk to the Board advised there were no speakers.

Chairman Faircloth closed the public hearing.

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

Subdivision Ordinance Text Amendment

F. Case P12-60: Revision and amendment to the Cumberland County Subdivision Ordinance amending Article XXIII, Improvement and Design Standards; Section 2304, Streets; sub-section C, Private Streets; allowing for the land area within a Class "C" private street to be counted for density purposes; and updating the Table of Contents if appropriate.

RECOMMENDATION: Members present at the September 18, 2012 meeting of the Joint Planning Board recommended adoption and approval of the text amendment as submitted and recommended by the Land Use Codes Committee. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, stated the proposed amendment enabled property in the right of way to be counted for density purposes.

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 approve the text amendment as presented.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

G. Continuation of the Public Hearing for the Renaming of Roads that were Severed by the Highway I-295 Project

BACKGROUND:

The North Carolina Dept of Transportation (NCDOT) realigned and severed roads due to the newly constructed Highway I-295 project within the Eureka Springs area, which will present confusion with the general public and/or emergency services if the existing names are not clarified or changed.

Cumberland County Code Section 4-172 Street Naming Procedures requires that the Cumberland County Board of Commissioners hold a public hearing to consider the changing of street names and to publish a notice in the newspaper of general circulation and post notice in the township where the roads are located, prior to the public hearing. The roads affected are:

CURRENT NAMES	PROPOSED
SEVERED PORTION OF JACOB ST	BENJAMIN ST
SEVERED PORTION OF GARNER ST	PINEVIEW ST
SEVERED PORTION PF PINEVIEW ST	JOSSIE ST
SEVERED PORTION OF GARNER ST	JACOB ST
SEVERED PORTION OF JOSSIE ST	BETTY LOU DR OR MCLEAN TRAIL DR

All property owners were notified of this public hearing by first class mail and a Public Hearing Notice was published in the Fayetteville Observer on Friday, September 7, 2012; however, there was an error and the notification was published again with corrections on September 8, 2012.

Staff presented these cases before the County Commissioners on September 17, 2012 where it was continued so staff could have a community meeting with the residents.

Staff held a drop-in community meeting with residents at Mt. Moriah FWB Church on September 25, 2012. Approximately twenty residents attended. Staff reviewed in detail the plans of the renaming cases and answered numerous questions.

RECOMMENDATION / PROPOSED ACTION:

Request that the Cumberland County Board of Commissioners adopt the name changes as recommended by staff.

Will Phillips, Planning and Inspections Location Services, reviewed the above background information and displayed maps depicting the affected portions of Jacob Street, Garner Street, Pineview Street, and Jossie Street as severed by the Highway I-295 project.

Mr. Phillips stated there is no opposition to renaming the severed portion of Jacob Street to Benjamin Street, Garner Street to Pineview Street and Pineview Street to Jossie Street. Mr. Phillips also stated for the contested renamings, it was thirteen in favor to three in opposition for renaming of the severed portion of Garner Street to Jacob Street, and of the two responses, it was one in favor for the renaming of the severed portion of Jossie Street to Betty Lou Drive and one in favor of the renaming of the severed portion of Jossie Street to McLean Trail. Staff relayed that Ms. Mable C. Williams still wanted the severed portion of Garner Street to be named Garner Street; however, the majority of the responses received supported renaming it to Jacob Street.

Chairman Faircloth advised this is a continuation of the duly advertised/noticed public hearing set for September 17, 2012. There were no speakers.

MOTION: Commissioner Council moved to follow the recommendation of staff to rename the severed portion of Jacob Street to Benjamin Street, Garner Street to Pineview Street and Pineview Street to Jossie Street.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

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MOTION: Commissioner Keefe moved to rename the severed portion of Garner Street to Jacob Street and the severed portion of Jossie Street to McLean Trail.

SECOND: Commissioner Edge

VOTE: PASSED (6-1) (Commissioners King, Keefe, Faircloth, Council, Melvin and Edge voted in favor; Commissioner Evans voted in opposition)

ITEMS OF BUSINESS

4. Report by Buck Wilson, Public Health Director on Mental Health Clinic Services for Quarter Ending September 30, 2012

BACKGROUND:

There are four (4) productivity reports on Mental Health Clinic Services attached herein as Attachment A, to include:

- Productivity Report FY July 2012
- Productivity Report FY August 2012
- Productivity Report FY September 2012
- Productivity Report FY 1st Quarter FY 2012 (July – September)

Mr. Martin called on Buck Wilson, Public Health Director, who introduced Dr. Mark Chandler, Medical Director, and Candi York, Business Manager with the Cumberland County Area Authority, who works two to three hours per week with the Public Health Department. Mr. Wilson reported for July 2012, the numbers were almost identical to the prior year and there is also a high no-show rate. Mr. Wilson stated historically July, August and September are low activity months and there has been a change to include more walk-ins so consumers do not no-show over and over again. Mr. Wilson reported the no-show rate has changed about 7% from July to September 2012 and stated he anticipates the no-show rate to go down and the walk-in activity to up.

Commissioner King asked whether individuals were performing at their maximum potential. Mr. Wilson stated it will take about a year to evaluate performance and in the meantime, monthly and quarterly numbers will be analyzed. Commissioner Council asked about data for the Roxie Center. Mr. Wilson stated there is a difference in that the Roxie Center provides inpatient services. Commissioner Council stated the report is unacceptable because the Board was told the Medical Director had a plan whereby these rates would be vastly improved. Commissioner Council stated the report does not indicate the unit is any less dysfunctional. Mr. Wilson stated it is his belief that the unit is improving and that the services and the percentages will continue to

improve. Mr. Wilson stated the unit has only been with the Public Health Department for a few months.

Commissioner Edge stated he did not see a report of the number of patients individuals are working with. Mr. Wilson stated the report shows the total number of patients served by the team in an effort to simplify the report; however, that data is available. Mr. Wilson stated the idea is to improve from one year to the next and cut costs to the county. Commissioner Edge asked who was supervising members of the team. Mr. Wilson stated there is a business manager position that has been vacant for several months that will supervise the entire operation and Dr. Chandler supervises the medical practice of the clinicians. Mr. Wilson stated getting someone to run the operation will increase productivity.

Commissioner Keefe stated the numbers do not reflect those of a private medical practice or what one would expect out of public health. Commissioner Keefe stated he would be interested in knowing how Cumberland County compares to other public health organizations.

Chairman Faircloth stated no-shows cut into productivity and asked whether there were enough patients awaiting services so they could be double or triple booked to fill up the unproductive times. Mr. Wilson stated productivity will continue to be monitored each month and Dr. Chandler has created a program to decrease the no-show rate. Mr. Wilson stated the no-show rate dropped in September. Mr. Wilson also stated efforts have been put into place to publicize the services that are now available through the Public Health Department because there had been a misunderstanding that the services were no longer available.

Commissioner Council asked whether the county was expending \$4.5 million on the program. Mr. Wilson stated the total budget is \$3.2 million.

Chairman Faircloth suggested that the report could be used as a base line and suggested that the Board take the report under advisement. Commissioner Council stated she would feel better if the numbers had been different in the past and she was not happy with the numbers as just reported. Chairman Faircloth stated productivity is going to be the key to the county providing these services locally if that is what the Board decides to do.

Mr. Martin suggested that the Board authorize staff to provide a report once a month for the next three months as decisions may need to be made over the next three months and quarterly may be too long to wait.

MOTION: Commissioner King moved to direct the Public Health Director to report to the Board monthly for the next three months.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

5. Report on Status of the Delivery of Mental Health Services in Cumberland County

At the October 1, 2012 meeting, Chairman Faircloth requested that the Board be provided with a report on the status of the delivery of mental health services in Cumberland County. This report is presented in response to that directive by addressing the significant financial issues, the interlocal agreement between the Cumberland County Authority and the Durham Center, and the potential merger of the Cumberland County Authority into a multi-county area authority.

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.

Mental Health County Funds Usage

	<u>FY 2012</u>	<u>FY 2011</u>
Fee for Service Contracts	991,543	1,271,835
MH OP Clinic	2,819,502	2,385,620
Volunteer Services	90,000	84,249
PATH	50,600	63,245
Detention Center	6,000	6,000
Guardianship	182,000	
Collaborative	16,000	25,000
Housing Coordinator	40,531	39,210
Workfirst DSS	7,427	8,900
System of Care Coord.	23,000	20,583
Smart Start	50,265	
Court Ordered Eval	85,579	93,018
Court Liaison	66,096	64,704
Respite		321,782
Totals	<u>4,428,543</u>	<u>4,384,146</u>

Fund Balance Usage/Client Care

	<u>FY 2012</u>	<u>FY 2011</u>
Sobriety Court	80,315	80,315
Mini Grants	80,000	80,000
CFV Detox	350,000	
Smart Start		25,222
TASC		38,331
Totals	<u>510,315</u>	<u>223,868</u>

Mr. Moorefield stated his report was intended to identify recurring issues that need to be dealt with by mental health staff, service providers and the Board, and also to look at the bigger picture of the local system and questions regarding potential mergers. Mr. Moorefield stated his report addressed these things in a broad brush manner and also included suggestions for conclusions for the Board's consideration. Mr. Moorefield reviewed the background information as recorded above.

Mr. Moorefield stated repeated questions have been raised about the continuance of the current local funding to mental health and after the budget adjustment adopted by the Board at the last meeting, the number in terms of local funding for the fiscal year was brought back on par to what it was last year, which had been management's intent at all times. Mr. Moorefield stated the additional budget revision to make up for federal and state cuts from local monies actually represented an increase in local funding. Mr. Moorefield stated the ongoing issue appears to be that mental health management views county management's recommendation of a budget that funds the local authority through the first half of the fiscal year or through December 31, 2012 as a cut in local funding. Mr. Moorefield stated it has been the intent of county management that the portion of local funding that would remain after this calendar year would be to the extent necessary funded through the Managed Care Organization (MCO). Mr. Moorefield explained during the 2013 budget process and at present, there is no contract between the corporate MCO and the local authority to do anything. Mr. Moorefield stated county management has been told the contract is expected to be finalized in November, which provides a narrow window of time before the MCO begins its operations.

Mr. Moorefield stated county management has worked to avoid the duplication of administrative functions so as not to fund both the MCO and the local authority to basically do the same thing. Mr. Moorefield stated the MCO will use federal and state monies to contract with service providers in Cumberland County to provide the services that have been provided for a number of years. Mr. Moorefield stated the local mental health authority hopes to have supplemental contracts with the same service providers as the MCO using local dollars which, from a care management perspective, would be a duplication of effort. Mr. Moorefield stated this basically does not make a lot of sense.

Mr. Moorefield stated the splitting of funding through the budget process has apparently been the cause of some angst with the local mental health authority that has regarded it as a discontinuance of local funding even though it has been said time and time again that was not the intention of county management.

Mr. Moorefield reviewed issues surrounding the fund balance that has been carried forward and stated it has been the practice of the local authority to budget some of the fund balance for recurring expenses in the past few years which is not a sustainable process. Mr. Moorefield stated he is concerned about the change in law that makes single county authorities accountable to the state and the regulation that states the Division shall recoup an amount equal to the fund balance in excess of 15%. Mr. Moorefield stated this is why it is crucial that the ownership of the fund balance be resolved as soon as possible. Mr. Moorefield stated the fact that the fund balance has been carried forward by the county on its financial statement as "restricted for mental health purposes" may be significant because it might serve as an acknowledgement by the county that it was in fact a mental health fund balance even though it was not a legal requirement. Mr. Moorefield also noted the law requires the fund balance of an area authority which is dissolved to be placed into the fund balance of the multi-county authority which is subsequently joined. Mr. Moorefield stated the law caught the county off guard. Mr. Moorefield stated that from his discussions with the NCACC and DHHS staff who were involved in the legislative negotiations, he believed they did not realize this provision would only apply to Cumberland and Johnston counties.

Mr. Moorefield discussed the interlocal agreement to establish the MCO contracting arrangement for mental health services and the provision of MCO functions by Cumberland and Johnston counties. Mr. Moorefield advised this is the only arrangement of this kind in the state because all other counties have merged as multi-county authorities. Mr. Moorefield stated the Secretary of the Department of Health and Human Services' approval of the interlocal agreement as the method by which public mental health services would be administered in Cumberland County is significant in that the state is regarding all of the three entities as a single entity whether or not Cumberland and Johnston Authorities even remain in existence. Mr. Moorefield stated should the Board wish to pursue a merger, clarification should be sought from the Secretary as to whether this agreement precludes any other form of statutorily authorized structure. Mr. Moorefield also stated because there is no detriment to Cumberland County, he recommends the Board to approve Alliance Behavioral Healthcare's resolution consenting to the alternate governing board structure.

Mr. Moorefield stated potential mergers with an existing multi-county authority or MCO as brought up by the Board of Commissioners at their prior meeting is a very involved process with numerous statutes and issues he has not addressed at present. Mr. Moorefield stated for a merger to be accomplished, the Board of Commissioners would have to assume the powers, responsibilities and duties of the Area Authority's Area Board because the local Area Board has already stated it is opposed to merger. Mr. Moorefield stated this cannot be done before the end of the fiscal year based on his review of the statutes; however, after June 30, 2013 the Area Board could be dissolved at any time. Mr. Moorefield advised that merger into an existing county authority does not ensure any degree of proportional representation on its governing board. Mr. Moorefield discussed potential mergers with Alliance Behavioral Healthcare, Inc., Johnston County and Eastpointe Authority. Mr. Moorefield then reviewed his recommendation as provided in the background information recorded above, concluded his report and responded to questions.

Chairman Faircloth noted there will be a joint meeting with the Area Board on October 29, 2012 and the resolution regarding the alternate Alliance board structure will be returned to the Board at its November 5, 2012 meeting for further consideration.

Chairman Faircloth advised there is no action required at this meeting.

6. Consideration of Request from Mental Health for \$1,217,894 in Additional Funding through December 31, 2012

BACKGROUND:

Commissioner King was contacted by a mental health substance abuse provider concerning a reduction in funding for the period ending December 31, 2012 and on Monday, October 8, 2012 management met with this provider, Commissioner King and representatives from Mental Health. The provider expressed concern that based upon a reduction in funding for substance abuse services, the number of approved units of services were significantly reduced in the month of October. The provider discussed increased demand for services and the need for intensive treatment as a justification for increased substance abuse funding. As an example, this particular provider was approved for 134 units of service for September and was reduced to 20 in October. A letter was sent to all providers (substance abuse and developmental disabilities) indicating that units of services would be reduced due to a reduction in local funding. Additional factors that have contributed to the reduction of units for this provider, is that four new substance abuse providers were added this fiscal year to provide the same services.

At your October 1, 2012 meeting, budget revisions were approved in the total amount of \$310,910, which increased local funding due to reductions in federal/state funding and to restore local dollars requested by Mental Health for services through December 31, 2012. County management reported to the Board that the restoration of this local funding and the replacement of the federal/state dollars would provide the same level of services, as provided in the first six months last year.

As the discussion continued at this October 8th meeting regarding the reduction of units allotted for substance abuse services, it became clear that the restoration of the local dollars would not provide the same level of services, as provided in the same period last year. The budget revision only increased the local dollars to the level that was originally requested by Mental Health in the requested budget. Upon further review of the financial statements and discussion with Mr. Debnam, we realize that the mental health fund balance has been utilized for the past four fiscal years to provide additional units of service. In fact, \$7,750,317 of fund balance has been used in fiscal years 2009 through 2012 for additional services. This fund balance has been utilized in addition to the county appropriation of approximately \$4.1M per year. It is important to note that from FY1998 through FY2008, the county appropriation of \$4.4M was not fully expended each year and in fact these local dollars that were not used, increased fund balance during this period, totaling approximately \$20.5M. Listed below is a detail of the local dollars and fund balance expended for the prior five fiscal years:

	FY08	FY09	FY10	FY11	FY12
Local Appropriation Spent	\$1,423,101	\$4,456,053	\$4,165,964	\$4,043,901	\$4,043,901

Fund Balance Spent	\$0	\$2,171,448	\$2,815,750	\$1,142,418	\$1,620,701
Total Local Dollars Spent	\$1,423,101	\$6,627,501	\$6,981,714	\$5,186,319	\$5,664,602

There appears to be several reasons for this dramatic change in local funding actually utilized for mental health services. Based on the discussion with this particular provider, demand for substance abuse services has been on the rise. However, more significantly, there has been a major shift in the philosophy of dollars that were committed to service delivery. This is illustrated by the fact that, as mentioned above, fund balance was actually used in addition to the local appropriated dollars in only four of the last 15 years. In addition, I believe that three other factors have attributed to this increased spending for service delivery; (1) expansion of the provider network; (2) level of services provided; and (3) increases in the authorization of units of services.

In addition to a change in funding philosophy, the provider network has been expanded “to allow any willing and capable provider,” the opportunity to participate. Expansion in the provider network at this particular time is significant since one of the expected outcomes of the managed care system is a reduction in the numbers of service providers, with a concentration on larger and more efficient providers. The level of service has also changed. We are now providing many higher level, intensive services which are more expensive and at the same time, we are increasing the number of authorized units of services. It appears that the focus was primarily on providing larger numbers of high end services from many providers, without an emphasis on budgetary limitations. The combination of these factors is attributable to the sharp increase in the total local dollars which have been spent for services in the last four years. Basically, we have been providing additional recurring services with one time funding (which amounts to \$7.75M in the last four years).

Mental Health staff is aware that this trend cannot not continue, especially after the Managed Care Organization (MCO) transition in January. In September 2012, letters were sent to all providers to begin the process of reducing authorized services to match the limited dollars available. At some point, the county needs to determine the level of services that can be provided on a recurring basis through annual recurring revenues. If this current pattern continues, the fund balance will be fully depleted in just a few years.

Attached you will find several budget revisions in which Mental Health is requesting to use additional fund balance for three areas:

(1) Additional Services	\$595,199
(2) MCO Start-Up Funds	\$533,940
(3) LME Positions (Jan through June)	\$88,755
Total Additional Fund Balance Requested:	\$1,217,894

To assist the Board in reviewing this request, a recap of the local dollars already allocated for mental health services is below:

Included in the Adopted Budget:	
LME Functions thru 12/31	\$628,371
MH Guardianship Positions at DSS	\$184,092
Sobriety Court	\$40,157
Roxie Avenue	\$175,000
Funds Set Aside for Other MH Services	\$825,000
Total Adopted	\$1,852,620
County Risk for Psychiatric Clinic	\$2,700,000

Budget Revision Approved October 1, 2012	\$310,910
Total Local Funds Budgeted /At Risk (Currently)	<u>\$4,863,530</u>

It is important to note that the \$4,863,530 which represents local funds currently and the projected amount the county is at risk for with the clinic, only provides additional service delivery dollars for the six month period ending December 31, 2012.

As noted above, Mental Health is now requesting additional local dollars/fund balance appropriation in the amount of \$1,217,894, which added to the \$4,863,530 would bring the local dollars to a total of \$6,081,424. Please also note that the additional service delivery dollars now being requested would again, only provide additional units for the period ending December 31, 2012.

Included with the budget revisions is a request for three locally paid positions through June 30, 2013. Management was not provided a detail of the \$386,616 requested for MCO start-up costs under the category of Other Service.

CONCLUSION:

- 1) Service providers in this community will face significant changes in the managed care environment. The number of providers will be reduced, the level of services provided may be reduced, the units of services provided will be reduced and the unit cost reimbursement rate will change. This is inevitable under a managed care system with capitated rates.
- 2) The current budgeted funding and the requested funding will only provide funds for additional services through the period ending December 31, 2012.
- 3) If the Board desires to provide the same services in the last six months of this fiscal year, a minimum of \$1.0M in additional local funding will be necessary. The local dollars committed for Mental Health would then exceed \$7M for this fiscal year.
- 4) The Board needs to identify the level of funding to be made available and then limit the authorized units of services to the recurring funds, and discontinue the practice of using one time funds for recurring service delivery expenditures.

RECOMMENDATION/PROPOSED ACTION:

Refer this item to the Finance Committee, which will allow additional time for Management to meet with Mental Health to understand and fully review this request.

Ms. Cannon reviewed the background information as recorded above. Ms. Cannon stated during the budget process, Mr. Martin does a good job explaining to the Board matching recurring expenditures with recurring revenue sources, and also notes that if the county is going to add recurring expenditures, the county also needs to be sure these recurring expenditures have a sustainable revenue source. Ms. Cannon stated the local mental health authority has been providing additional recurring services with one time funding in a total amount of \$7.75 million over the last four years. Ms. Cannon stated if this current pattern continues, the fund balance will be fully depleted in just a few years.

Ms. Cannon reviewed budget revisions in which mental health is requesting the use of additional fund balance totaling \$1,217,894 and recapped local dollars already allocated for mental health services totaling \$4,863,530. Ms. Cannon reviewed the conclusions as recorded above and stated she has presented this information as a financial perspective only on the services provided over the past few years. Ms. Cannon stated the recommendation is to refer this item to the Finance Committee for additional review and return to the Board at its November 5, 2012 meeting.

Commissioner Keefe asked whether the presentation indicated a lack of good financial management by the local mental health authority. Ms. Cannon stated the emphasis of the local mental health authority has been on providing higher level services, additional services, and expanding its provider network without any great regard for budgetary considerations when it should have been preparing for the managed care environment.

MOTION: Commissioner Melvin moved to refer the matter to the Finance Committee which will allow management additional time to meet with the local mental health authority to understand and fully review the request.

SECOND: Commissioner King

DISCUSSION: Commissioner King stated he seconded the motion because he respects the process; however, the Board knows what has been requested and there is little more to look at.

VOTE: UNANIMOUS (7-0)

7. Discussion of the Cumberland County Travel Policy

BACKGROUND:

Chairman Marshall Faircloth requested the placement of "Discussion of County Travel Policy" on the Board of Commissioners' agenda for their October 15, 2012 regular meeting. Cumberland County Travel Policy CP-06 has been provided as backup for this item.

Chairman Faircloth stated he requested the addition of this item in light of recent press and publicity. Chairman Faircloth stated the crux of the issue is related to travel advances and reimbursing the advances on a timely basis. At the request of Chairman Faircloth, Ms. Cannon explained the travel advance process and responded to questions. Chairman Faircloth opened the floor for suggestions.

Commissioner Keefe stated it is a responsibility of the Board to ensure county funds are accounted for, expensed correctly and reimbursed immediately. Commissioner Keefe suggested the use of a statement authorizing a payroll deduction if the amount due is not reimbursed within ten days from the return of travel. Commissioner Keefe stated he felt this would be a solid policy for everyone in county government.

Commissioner King stated during his twenty years of service there have not been any problems related to this issue and he does not feel it necessitates a change in policy. Commissioner King suggested that the issue be referred to the Policy Committee for thorough review and discussion.

Commissioner Edge spoke to the Board's control of employees, department heads, appointed officials and elected officials, and stated he believed this is an issue that behooves the Board to be accountable to the people who elected them. Commissioner spoke to integrity with accountability, and stated he felt an obligation to fix the issue and that the Board should also feel obligated to fix the issue.

Commissioner Council spoke in support of the use of a statement that would authorize payroll deductions for amounts not reimbursed to the county within ten days from the return of travel.

MOTION: Commissioner Council moved to amend the policy to include a statement with the signed advance authorizing withholding if the amount is not paid back within ten days from returning to work.

SECOND: Commissioner Evans

DISCUSSION: Commissioner Keefe asked Mr. Martin and Ms. Cannon if this was doable and would take care of the issue. Mr. Martin stated it will take care of the issue if applied across the board to include employees.

SUBSTITUTE MOTION: Commissioner Edge moved that travel advances exclude county commissioners, department heads and other elected officials such as the Register of Deeds and the Sheriff and all appointed officials.

SECOND: Chairman Faircloth

DISCUSSION: Chairman Faircloth asked whether the motion enabled employees to operate under the current policy. Commissioner Edge confirmed that it did because their

jobs could be held over their heads. Chairman Faircloth stated he planned to support the motion because people are looking to the Board to fix the problem and to be accountable for the safeguarding of the assets of Cumberland County.

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

Chairman Faircloth asked Mr. Moorefield to explain the rationale behind the statement. Mr. Moorefield stated the county does not have the means to force an individual to allow withholding since this is not a garnishment that would have to undergo a legal proceeding. Mr. Moorefield explained this is a voluntary consent by any individual receiving a travel advance that up to 100% of the funds could be deducted from their paycheck if they do not pay it back within ten days after returning to work. Chairman Faircloth asked whether the motion contemplated withholding up to 100% until satisfied. Commissioner Council confirmed that it did. Mr. Moorefield stated this is consistent with the statement of the policy that travel advances are not to be used as interest free loans. Mr. Moorefield also stated a civil proceeding would be the only way for the county to recoup travel advances from appointed officials since they do not have paychecks. Commissioner Keefe suggested that those not receiving a paycheck also not receive travel advances. Ms. Cannon stated she believed travel advances are not offered to any members of boards that are not paid board members because if they travel on county business, they are reimbursed after the fact.

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

8. Nominations to Boards and Committees

- A. Cumberland County Home and Community Care Block Grant Committee (3 Vacancies)

Commissioner Council nominated Robin Kivett for the Civic Representative position, Antoinette Hernandez for the Aging Service Provider position, and Cassandra McMillon for the Older Consumer position.

- B. Joint Senior Citizens Advisory Committee (1 Vacancy)

Commissioner Melvin nominated Glenda Dye.

9. Appointments to Boards and Committees

- A. Air Quality Stakeholders' Committee (2 vacancies)

<u>Nominees:</u>	<u>Town of Linden Stakeholder:</u>	Janice Lucas (Reappointment)
	<u>FTCC Stakeholder:</u>	Richer Rice

- B. Cumberland County Juvenile Crime Prevention Council (1 Vacancy)

<u>Nominee:</u>	<u>Member of Faith Community:</u>	Shawn Withy-Allen
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- C. Library Board of Trustees (3 Vacancies)

<u>Nominees:</u>	Daisy D. Maxwell (Reappointment)
	Mary e. Thomas (Reappointment)
	Sara VanderClute (Reappointment)

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
VOTE: UNANIMOUS (7-0)

10. Consideration of Authorizing the Chairman to Sign a Deed Correction to AIT

Mr. Moorefield stated in 2004 the Board approved the sale of the Sears building to AIT. Mr. Moorefield stated the deed to AIT used the property description that had been contained in the deed to the county and that deed contained two errors. Mr. Moorefield stated that AIT had sued the county over the errors in the deed. Mr. Moorefield stated that the suit had been dismissed by AIT and that he had advised counsel for AIT that he would recommend that the county execute a correction deed to correct the errors in the description. Mr. Moorefield also stated the AIT property has been sold by a foreclosure sale and counsel for AIT reported the prospective owner still wanted the correction deed. Mr. Moorefield further advised that there were other title issues to be cleaned up by this transaction and he recommend the Board to approve the correction deed.

MOTION: Commissioner Council moved to approve the deed correction.
SECOND: Commissioner Evans
VOTE: PASSED (5-1) (Commissioners Evans, Faircloth, Council, Melvin and Edge; Commissioner Keefe voted in opposition)

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

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board