

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
DECEMBER 16, 2013 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Jeannette Council, Chair
Commissioner Kenneth Edge Vice Chairman
Commissioner Charles Evans
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Melissa Cardinali, Finance Director
Sally Shutt, Public Information Director
Jon Soles, Public Information Specialist
George Hatcher, Code Enforcement Officer
Tom Lloyd, Planning and Inspections Director
Lisa Childers, Cumberland County Extension Director
Jeffrey Brown, Engineering and Infrastructure Director
Daniel Ortiz, Environmental Health
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Council called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner King 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 Council recognized the clerk to the board who stated there were no speakers.

Recognition of Outgoing Board Member:

Carrie Tyson-Autry, Board of Adjustment

On behalf of the Board of Commissioners, Commissioner Edge recognized Carrie Tyson-Autry with a certificate of appreciation for having served on the Board of Adjustment.

Tom Cain, Joint Senior Citizens Advisory Commission

William Watson, Joint Senior Citizens Advisory Commission

On behalf of the Board of Commissioners, Commissioner Evans recognized Tom Cain and William Watson with certificates of appreciation for having served on the Joint Senior Citizens Advisory Commission.

Willie Wright, Library Board of Trustees

On behalf of the Board of Commissioners, Chairman Council recognized Willie Wright with a certificate of appreciation for having served on the Library Board of Trustees.

Recognition of Retired County Employee:

William Duke - Cumberland County Department of Social Services

On behalf of the Board of Commissioners, Commissioner Evans recognized William Duke with a plaque honoring his years of service with the Cumberland County Department of Social Services.

Recognition of 2013 Cumberland County Agricultural Hall of Fame Inductees:

Chairman Council called on Commissioner Keefe to recognize the 2013 Cumberland County Agricultural Hall of Fame inductees. Commissioner Keefe stated while serving as Chairman of the Board of Commissioners in 2013, he attended the Cumberland County Agriculture Hall of Fame Committee meeting and participated in the consideration of applications for inclusion into the Agriculture Hall of Fame for 2013. Commissioner Keefe stated he was proud to recognize Julian McIntyre and George Raz Autry III as the 2013 inductees. Commissioner Keefe presented plaques to Mr. McIntyre and Mr. Autry. The biographical information as recorded below was provided to the Board of Commissioners.

Julian McIntyre – 2013 Cumberland County Agricultural Hall of Fame Inductee:

The youngest of three children, Mr. McIntyre grew up on a farm in Robeson County. At the age of eighteen he was drafted into the Army. After completing Basic Training at Fort Knox, Kentucky, he served twelve (12) months in Japan with the Occupation Forces. After proudly serving, he was discharged on November 30, 1946 and is a veteran of World War II.

Julian McIntyre grew up on a farm in Robeson County. Mr. McIntyre graduated from NC State University with a degree in Agronomy and began his career with the USDA Soil Conservation Service (what is now known as the Natural Resources Conservation Service) in 1955. Over the course of his career he worked in multiple counties including: Sampson, Scotland, Craven and Catawba. With the retirement of Hubert Willis in 1968, he transferred to Cumberland County and remained in Cumberland County until his retirement. With thirty-four years of outstanding Federal Service, he retired on October 31, 1986.

Upon his arrival in Cumberland County he found there was a heavy workload with the farmers and landowners in the county. Living by the Golden Rule, Mr. McIntyre always treated others as he wanted to be treated which meant he spent long hours in the fields and woods of Cumberland County assisting landowners and solving problems on their properties. There were miles and miles of drainage ditches and subsurface drain tile to be installed every year. In order to get the landowner the best possible drainage system, Mr. McIntyre walked the fields over and over again to ensure the best job was done.

Shortly after his arrival Cumberland County, there was an interest in reviving an old drainage system in the Eastover-Wade area that was originally dug in the early 1900's, this was called the Flea Hill drainage system. There were many fields and home sites that flooded nearly every year until the drainage canals were cleaned out. In order to get the project started and also to keep it going Mr. McIntyre had to have a lot of one-on-one contact with the farmers and landowners to improve their land as the adjacent canals were cleaned out and enlarged. In addition to helping the farmers of Cumberland County Mr. McIntyre also worked closely with the county health department to assist homeowners with drainage problems that caused their septic tanks to back up, or to help prepare the land before a house was built on it.

Mr. McIntyre is an active member of Highland Presbyterian Church, where he has served on the Board of Deacons and as an Elder. He has been a member of the Clinton Rotary Club and the Fayetteville Rotary Club. Julian McIntyre's work as District Conservationist had a positive impact in the lives of thousands of citizens in Cumberland County.

George Raz Autry III- Cumberland County Agricultural Hall of Fame Inductee:

George Autry, North Carolina State University graduate, spent his entire career with North Carolina Cooperative Extension. He began in Halifax County as the Agriculture agent, anxious to return to his roots, he soon transferred to Cumberland County to serve as the Agriculture agent. In 1985 George was selected to lead the Cumberland County staff and was named County Extension Director. He remained with Cumberland County Cooperative Extension until his retirement in October 2009.

During his tenure with Cooperative Extension, George became one of our state's most notable individuals in the agriculture community. George's job wasn't just a job. Always keeping the interests of the farmers and producers in mind, George's name became synonymous with the word agriculture in Cumberland County. Although George's role as County Extension Director brought with it new responsibilities, George continued to be actively involved in all aspects of agriculture from ponds to livestock to crops.

A community visionary George accomplished many things for Cumberland County. Among his many achievements are:

- The establishment of the Charlie Rose Agri-Expo Center and Agriculture Office building.
- The establishment of the Cumberland County Voluntary Agricultural District Program.
- The establishment of the North Carolina 4-H Museum.
- The establishment of the Cumberland County 4-H Endowment and Enhancement Funds.
- The establishment of the Cumberland County Fair Youth Livestock Show program.
- The establishment of the Sandhills 4-H Livestock Show Circuit.
- The establishment of the Cumberland County Agricultural Hall of Fame recognition program.
- Worked with recycling programs including newspaper recycling for livestock bedding and Christmas tree recycling for sand dune restoration on the coast.
- The establishment of storm water best management practices demonstrations including the Spring Lake Family Resource Center artificial wetland/rain garden demonstration and the Fayetteville Technical Community College Horticulture Building water harvesting project.
- Worked with Fayetteville Area Visitors Bureau in the establishment of the cultural trails program and promotion of agri-tourism.

Still enthusiastically involved in the community, George can be found “giving back” by cooking and serving breakfast at Operation Inasmuch, an organization that assists the community’s homeless population. George received a B.S. Degree in Animal Science and a Master’s Degree in Adult Education from North Carolina State University and continues to be a loyal “Wolfpack Fan”.

George received many awards and honors while employed with Cooperative Extension. His most notable awards include:

- Young Agent Achievement Award(1983), Communication Award Radio Program (1991), Search for Excellence Award Urban Programs (1992/1996), and Distinguished Service Award (1998) from the North Carolina Association of County Agricultural Agents.
- NC Cooperative Extension Search for Excellence Award Extension Resource Development (2003)
- Honorary Chapter Degree Grays Creek High School FFA 2009
- Pride of the Wolfpack award in 2008

George was awarded the most prestigious “Order of the Long Leaf Pine” upon his retirement in 2009 in recognition of his service to the citizens of North Carolina.

In 2009 George received the distinction of Field Faculty Emeritus status from NC State University. A current member of the Exchange Club of Fayetteville, George has served on numerous boards and committees.

- North Carolina Association of County Agricultural Agents
- Cumberland County Farm Advisory Board
- Fayetteville Technical Community College Bio Technology Advisory Committee
- North Carolina 4-H Livestock Endowment Advisory Board
- Fayetteville Jaycees

- Fayetteville Jaycees Board of Directors
- Cumberland County Partnership for Children Board of Directors
- Fayetteville Area Chamber of Commerce
- NC State University Student Aid Association (Wolfpack Club) district representative
- Cumberland County Wolfpack Club
- Cumberland County Livestock Association
- Cumberland County Farm Bureau
- Cape Fear High School Agricultural Sciences Academy Advisory Committee
- Cumberland County Schools Vocational and Technical Education Advisory Committee
- Cumberland County 4-H Foundation
- North Carolina 4-H Livestock Endowment Committee
- Spring Lake Family Resource Center Planning Committee
- Cape Fear Botanical Garden Board of Directors
- Fayetteville Area Chamber of Commerce Leadership Fayetteville Resource Leader

George is married to the former Pandey Jackson and they have three children; Lindsey, Jackson, and Samantha. He is the son of Raz and Ireni Autry of Hoke County. George will always be remembered for his love of family, his service to his community, and his respect and work for the farming community.

Recognition of 2013 Cumberland County Young Farmer of the Year:

Commissioner Keefe stated he was proud to recognize Ryan Kennedy as the 2013 Cumberland County Young Farmer of the Year. Commissioner Keefe presented a plaque to Mr. Kennedy. The biographical information as recorded below was provided to the Board of Commissioners.

Ryan Kennedy – 2013 Cumberland County Young Farmer of the Year:

Ryan is the fifth generation to farm the same soil in the community of Grays Creek. His great-great-grandfather John tilled the earth of a two mule farm in the late 1800's, and the tradition continues today. By the time he was six years old he was planting his own garden, complete with field corn and of course a few stalks of tobacco. His garden was irrigated with an assortment from his sprinkler collection. It wasn't long before he was running much of the farm equipment, from tractors and combines to the backhoe and dragline, giving his mother many worrisome hours. Ryan became an integral part of the farming operation before he was old enough to legally drive. It seems that he was destined to farm.

As an active member of the Grays Creek FFA for five years, Ryan participated in numerous activities and earned the State Degree in his senior year. He took part in state and national level competitions and served on the officer team. His experiences and leadership roles in the FFA were invaluable lessons that enhanced his agricultural upbringing. Attending NC State University was a no-brainer for Ryan. He graduated from the Agricultural Institute with a degree in Ornamentals and Landscape Technologies. Upon completing his degree, Ryan returned to the farm to contribute full time to the business. He actively continues his work with the Grays

Creek FFA, serving as vice-president of the alumni association and helping to coordinate events as well as hands on service for many of their activities.

Every generation brings new innovation and practices to any business. The success of our farm is on the upswing due to this attention to good current farm practice that Ryan has been strategic in helping to implement. Researching seed varieties, recording formulas, monitoring irrigation, tracking yields and endless equipment repairs are daily chores on the farm which Ryan tackles with enthusiasm. Ryan and his Dad took second and third place this year in the annual wheat yield competition for the region, and our corn and soybean production have reached new levels of success. Ryan's grandfather received this award in 1963, and now, fifty years later we are honored by and thankful to Farm Bureau for recognizing Ryan's accomplishments and his dedication to advancing agriculture.

James Martin, County Manager, asked the board to consider the following amendments to the agenda: Item 4.D. – consider revised resolution and map for the Bragg Estates Water and Sewer District in order to add one additional parcel to the district boundary; remove Item 7. from the agenda; add as Item 10.A. a closed session for Attorney/Client Matters pursuant to 143-318.11(a)(3); add as Item 10.B. a closed session for Personnel Matters pursuant to 143-381.11(a)(6).

1. Approval of Agenda

MOTION: Commissioner Edge moved to approve the agenda with the amendments as requested.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

2. Presentation of the FY 2013 Annual Audit by Ms. Michelle Thompson, CPA, Partner, Cherry Bekaert, L.L.P.

BACKGROUND:

Ms. Michelle Thompson, CPA, Partner of Cherry Bekaert, LLP will be making a presentation of the FY 2013 Annual Audit at the December 16, 2013 Board of Commissioners meeting.

Chairman Council called on Michelle Thompson, a partner of Cherry Bekaert, LLP. Ms. Thompson provided the audit report for fiscal year ended June 30, 2013 beginning with the audit results under generally accepted auditing standards.

Basic Financial Statements:

- Unmodified – “clean opinion”
- Represents *highest* level of assurance

OMB Circular A-133 – State and Federal Financial Assistance:

- Unmodified – “clean opinion”

Ms. Thompson called attention to a letter to the Board of Commissioners with information Cherry Bekaert, LLP is required to communicate with regard to their audit. Ms. Thompson stated the letter indicated a new accounting standard had been adopted in the current year.

“Audit” General Fund Summary

Ms. Thompson reported that the General Fund’s expenditures and other financing uses exceeded revenues and other financing sources by \$2.3 million. Ms. Thompson stated this is better than originally planned or budgeted.

For position variances, Ms. Thompson reported the only category that did not have a positive variance was \$3.1 million in restricted intergovernmental revenue because expenditures had not been incurred. On the expenditure side, Ms. Thompson reported there was a positive variance of \$21 million over the amount budgeted. Ms. Thompson also reported actual personnel costs including fringe benefits across all operating departments was \$5.2 million less than budgeted and basic operating expenditures across the same departments was \$4.2 million below budget. Ms. Thompson further reported there was \$3.5 million in encumbrances carried over to the current operating budget.

General Fund’s Fund Balance

Ms. Thompson reported there was nonspendable fund balance or inventories in the amount of \$139,885, restricted fund balance required by third parties for specific purposes in the amount of \$28,024,591 and committed fund balance as approved by resolution adopted by the Board in the amount of \$494,773. Ms. Thompson then reported the assigned fund balance set aside by the Board for future use, including subsequent years’ expenditures and unassigned funds, was \$31 million. Ms. Thompson stated the unassigned fund balance represents 10.19% of the FY 2013 expenditures which is consistent with the county commissioners approved policy that requires the amount be at least 10%. Mr. Thompson reported the total available fund balance, assigned and unassigned, was 23.65% which exceeds the county’s 15% minimum.

Fund Balance History

Ms. Thompson reviewed a history or trending of the Fund Balance from 2004 through 2013 and stated funds over 10% may be set aside for special purposes. Ms. Thompson stated the Local Government Commission’s recommendation for fund balance is a minimum of 8%.

Ms. Thompson thanked staff of the county’s Finance Department for their assistance in putting together the annual financial report. Ms. Thompson responded to questions.

MOTION: Commissioner Evans moved to accept the fiscal year 2013 audit report.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (7-0)

3. Consent Agenda

A. Approval of minutes for the December 2, 2013 regular meeting

B. Approval of Destruction of Department Records for County Administration, Governing Board and Planning & Inspections

BACKGROUND:

County Administration Records

Pursuant to a resolution adopted by the Board of County Commissioners on February 4, 1985, request is for authorization to destroy the following records:

- 2009-2010 County Administration Correspondence
- 2009-2010 County Administration Memorandums
- 2009-2010 County Administration Administrative Material

The destruction of these records is in accordance with the current Records Retention and Disposition Schedule issued by the North Carolina Division of Archives and History and adopted by the Board of Commissioners.

Governing Body Records

Pursuant to a resolution adopted by the Board of Commissioners at its February 4, 1985 meeting, authorization is requested to destroy Governing Body department records as noted below.

The destruction of these records is in accordance with the Records Retention Schedule issued by the North Carolina Division of Archives and History and adopted by the Board of Commissioners at its June 19, 2006 meeting.

COMMISSIONERS' AGENDA AND MEETING PACKETS RECORD SERIES – 2009
Per Standard 1-Administration and Management Records – Item #2:
Destroy in office when administrative value ends.

CORRESPONDENCE AND MEMORANDA RECORD SERIES - 2009
Per Standard 1-Administration and Management Records – Item #16:
Destroy in office when administrative value ends. Destroy in office
remaining records after 3 years.

Planning & Inspection Department Records

In accordance with the Records Retention and Disposition Schedule dated April 1, 2006, request is for permission to destroy records dated prior to January 1, 2008 on or before March 31, 2014. The maximum time period we are required to maintain records is six years. This request will allow records to be destroyed that are no longer useful. Records to be destroyed are as follows:

1. Permit Files: Included are Applications for Building, Electrical, Plumbing, Mechanical, Insulation, Demolition, Relocation, and Zoning Permits, Permits Issued, Work Tickets, Certificates of Occupancy, Blueprints and Specifications and related correspondence.

2. Minimum Housing, Junk Vehicle and Zoning Code Enforcement Files.
3. Activity Reports: This file consists of information compiled for the U.S. Bureau of the Census, reports of money collected for permit fees, inspections performed, and permits issued.
4. Correspondence/Memorandums.

Exceptions:

- A. Any record required to be retained permanently or for the life of the structure.
- B. Records, if any, related to any ongoing litigation.

RECOMMENDATION/PROPOSED ACTION:

Record the report in the Board's official minutes.

C. Approval of Sale of Surplus County-Owned Real Property

BACKGROUND:

On August 16, 2010, the County acquired by deed in lieu of foreclosure the properties recorded below. These properties are currently being maintained as rental by Community Development.

3322 Antler Drive, Spring Lake – PIN: 0502-39-9456
728 Carnegie Drive, Fayetteville – PIN: 0521-82-6038
6405 Wendy Terrace, Fayetteville – PIN: 0404-18-7767
4815 Boylan Street, Fayetteville – PIN: 0415-72-6510

Kingdom Community Development Corporation has offered to purchase these properties in the amount of \$175,000 and have deposited \$8,750 with the County. On November 18, 2013, the Board of Commissioners proposed to accept the offer subject to upset bid procedure. The properties have been advertised and the County has not received any upset bids and the bid period is now closed.

These properties are surplus to the needs of the County, and according to N.C.G.S. §153A-176 the County has the authority to sell such properties.

RECOMMENDATION/PROPOSED ACTION:

That the Board of Commissioners accept the offer of Kingdom Community Development Corporation to purchase the above properties for the sum of \$175,000, and authorize the Chairman to execute the deeds upon receipt of the balance of the purchase price.

D. Approval of Sale of Surplus Property to the City of Fayetteville

BACKGROUND:

On or about September 29, 2009, the County acquired the above properties by tax foreclosure. The City of Fayetteville has expressed an interest in acquiring the properties due to their location within the Murchison Road Redevelopment Area and they are needed to promote economic development. The City of Fayetteville has agreed to pay the unpaid taxes for which the County acquired for both properties at foreclosure in the amount of \$5,252.95.

This property is surplus to the needs of the County and, according to N.C.G.S. §160A-274, the County may transfer property by sale, lease or exchange to another governmental unit by private sale on such terms as the Board deems wise, with or without consideration.

RECOMMENDATION/PROPOSED ACTION:

That the Board of Commissioners consider whether to accept the offer of City of Fayetteville to purchase the above properties for the sum of \$5,252.95 pursuant to N.C.G.S. §160A-274 and authorize the Chairman to execute a deed conveying the properties upon receipt of the balance of the purchase price.

E. Budget Revisions:

(1) Health

Child Health - Revision in the amount of \$41,366 to budget the following initiatives: Families Eating Smart and Moving More, Bicycle Safety Education, Car Seat Safety Education, Pool Safety Education and Teenage Pregnancy Prevention. (B14-222) Funding Source – Fees

(2) Sheriff's Office

a. Sheriff's Grants: Revision in the amount of \$5,964 to reduce the 2011 Byrne Grant for expenses incurred in FY2013. (B14-218) Funding Source – Federal

b. Federal Forfeiture-Justice: Revision in the amount of \$282,325 to recognize forfeiture funds to purchase firearms and related equipment and uniforms. (B14-228) Funding Source- Federal Forfeiture

(3) Facilities Maintenance/General Government Other

Revision in the amount of \$75,000 to reallocate maintenance and repair funds from General Government Other to Facilities Maintenance for the demolition of the Legal Aid building. (B14-221 and B14-221A) Funding Source – Reallocation of Budgeted Expenditures

(4) Library

Revision in the amount of \$904 to recognize a reduction in State Aid. (B14-217) Funding Source – State

(5) Stoney Point Fire District

Revision in the amount of \$100 to fund unanticipated refunds to taxpayers. (B14-225) Funding Source – Stoney Point Fire Tax

(6) Westarea Fire District #10

Revision in the amount of \$100 to fund unanticipated refunds to taxpayers.
(B14-226) Funding Source – Westarea Fire Tax #10

(7) Special Fire District

Revision in the amount of \$350 to fund unanticipated refunds to taxpayers.
(B14-227) Funding Source – Special Fire District

(8) School Capital Outlay Fund

Revision in the amount of \$266,323 to reallocate budgeted revenue and expenditures to change the funding source of a transfer to the General Fund for debt service from sales tax to lottery funds. (B14-232 and B14-232A)
Funding Source – Sales Tax and Lottery Funds

MOTION: Commissioner King moved to approve consent agenda items 3.A. – 3.E.(8).

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (7-0)

4. Public Hearings

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

Uncontested Rezoning Cases

- A. Case P13-46: Rezoning of 42.60+/- acres from R40 Residential/DD Density Development/CUD Conditional Use District and Permit to R40 Residential, or to a more restrictive zoning district; located on the southwest side of SR 2013 (Old Vander Road), north of SR 2013 (Macedonia Church Road); submitted by D. Lee Herrera on behalf of Roundpoint Asset Management, Inc. (owner) and Larry King and Associates, PLS.

Staff Recommendation: Denial of R40 but approval of reversion to A1; adopting and approving the reasonableness statement, finding the Staff Recommendation consistent with LUP and approve reversion to A1

Planning Board Recommendation: Approve Staff Recommendation

RECOMMENDATION: Members present at the November 19, 2013 meeting of the Joint Planning Board recommended following the staff recommendation and deny R40 but approve reversion to A1; and adopting and approving the reasonableness statement, finding staff recommendation consistent with LUP and approve reversion to A1.

Tom Lloyd, Planning and Inspections Director, presented this item and advised the applicant was in agreement with the reversion to A1 and there was no opposition.

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

Chairman Council opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Council closed the public hearing.

MOTION: Commissioner King moved to adopt staff recommendation for Case P13-46.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

Minimum Housing Code Enforcement

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

- B. Case Number: MH 109-2013
Property Owner: Donnie Ray Vause Heirs & Richard Joseph Jarvis
Property Location: 3921 Nashville Drive, Fayetteville, NC
Parcel Identification Number: 0424-75-6077

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 109-2013.

Property Owner: Donnie Ray Vause Heirs & Richard J. Jarvis
Home Owner: Donnie Ray Vause Heirs & Richard J. Jarvis
Property Address: 3921 Nashville Drive, Fayetteville, NC
Tax Parcel Identification Number: 0424-75-6077

SYNOPSIS: This property was inspected on 5/22/2013. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 10/24/2013. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 11/24/2013. The property owners and parties of interest were notified of the appeal procedures when they were served with the

Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 12/5/2013, no corrective action had been made to the structure. The structure is presently vacant and reasonably secured. In its present state, the structure constitutes a fire, health, and safety hazard.

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

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

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

Chairman Council opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Council closed the public hearing.

Commissioner King asked to see pictures of the property again. Mr. Hatcher stated no permits have been issued for any of the work on the mobile home, it is infested with roaches, residents of the neighborhood call county offices every three months or so about the mobile home and the property owner has not cut the grass in two years. Commissioner Evans asked whether the property owners live in Fayetteville. Mr. Hatcher stated Donnie Ray Vause is deceased and the son lives in Massachusetts.

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

SECOND: Commissioner Evans

DISCUSSION: Commissioner King asked whether anyone locally was managing the property. Mr. Hatcher responded in the negative. Commissioner Edge asked whether the mobile home could be moved. Mr. Hatcher responded in the affirmative.

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

- C. Case Number: MH 277-2013
- Property Owner: Ida Mae Davis Flood Heirs
- Property Location: 4920 Wall Street, Linden, NC
- Parcel Identification Number: 0574-75-1514

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

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

BACKGROUND: That the following is a report on Minimum Housing case number MH 277-2013.

Property Owner: Ida M D Flood Heirs
Home Owner: Ida M D Flood Heirs
Property Address: 4920 Wall Street, Linden, NC
Tax Parcel Identification Number: 0574-75-1514

SYNOPSIS: This property was inspected on 8/7/2013. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 10/17/2013. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 11/17/2013. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 12/5/2013, no corrective action had been made to the structure. The structure is presently vacant and reasonably secured. In its present state, the structure constitutes a fire, health, and safety hazard.

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

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

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

Chairman Council opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Council closed the public hearing.

Commissioner Evans asked whether the property owners had been contacted. Mr. Hatcher explained legal service was by certified first class mail and posting of the property. Mr. Hatcher stated on his last visit, individuals were removing framework from the burned trailer but no further clean up of the lot has been conducted.

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

Other Public Hearings

D. Public Hearing for the Purpose of Receiving Comments from Property Owners in the Proposed Bragg Estates Water & Sewer District and Consideration of Adoption of a Resolution to Create the Bragg Estates Water & Sewer District.

BACKGROUND:

The Bragg Estates community has been experiencing septic tank failures over the last several years. These failures pose a health and safety concern for the community.

The Public Utilities Division requested at the November 18, 2013 Board of Commissioners meeting to set a public hearing date for December 16, 2013 as required by North Carolina General Statute 162A-86, to receive comments pertaining to the creation of the Bragg Estates Water and Sewer District.

Following the public hearing the Board of Commissioners may take action to adopt the resolution to create the Bragg Estates Water and Sewer District for the purpose of applying for grants and low interest rate loans.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director, the County Attorney's Office and County Management recommend that the Board of Commissioners adopt the resolution recorded below creating the Bragg Estates Water and Sewer District. The proposed action by the Board is to follow the staff recommendation.

**RESOLUTION CREATING BRAGG ESTATES
WATER AND SEWER DISTRICT**

WHEREAS, the Cumberland County Board of Commissioners (hereinafter “the Board”) at its regular meeting on December 16, 2013, held a public hearing, pursuant to NCGS 162A-86 et. seq., to consider creation of the Bragg Estates Water and Sewer District; and

WHEREAS, pursuant to NCGS 162A-86, prior to the December 16, 2013 public hearing a notice of public hearing was prepared stating the date, hour and place of the public hearing and its subject and setting forth a description of the territory to be included within the proposed Bragg Estates Water and Sewer District; and

WHEREAS, pursuant to said NCGS 162A-86, the said notice of public hearing was published once a week for three weeks in a newspaper that circulated in the proposed district and was posted in at least three public places in the district. The notices of public hearing were posted and published the first time not less than twenty days before the hearing; and

WHEREAS, at the public hearing held at 6:45 p.m., December 16, 2013, in Room 118, Cumberland County Courthouse, 117 Dick Street, Fayetteville, North Carolina any taxpayer and all other interested persons were allowed to appear and be heard concerning the question of creating the Bragg Estates Water and Sewer District; and

WHEREAS, public hearing was opened and interested persons addressed the Board of Commissioners

NOW, THEREFORE, the Board, following the public hearing, finds that:

1. There is a demonstrable need for providing in the district sewer services;
2. The residents of all the territory to be included in the district will benefit from the district’s creation; and
3. It is economically feasible to provide the proposed service in the district without unreasonable or burdensome annual tax levies;

THEREFORE, the Board finds that the district shall be defined as set forth below; and

THEREFORE, the Board now desires to create the Bragg Estates Water and Sewer District.

NOW, THEREFORE, BE IT RESOLVED by the Cumberland County Board of Commissioners as follows:

The Bragg Estates Water and Sewer District is created and the said District is hereby described as follows:

The area that is known as Bragg Estates located in the northwestern corner of Cumberland County along Vass Road SR#690. The Bragg Estates Water and Sewer District shall include all the properties with the following street addresses:

1003 to 1246 Vass Road, Spring Lake, North Carolina, 28390; all addresses on Riverside Circle, Spring Lake, North Carolina, 28390; all addresses on Kenwood Avenue, Spring Lake, North Carolina, 28390; all addresses on Dolphin Drive, Spring Lake, North Carolina, 28390 and all of parcel number 9592-67-6541. The boundary of the proposed water and sewer district is more particularly described on a map available for inspection in the Office of the Public Utilities Division and titled Bragg Estates Water and Sewer District.

The Clerk to the Board is hereby authorized and directed to cause this Resolution to be published once in each of two successive weeks in the newspaper in which the notice of the public hearing was published, as well as the following statement, which shall be printed at the end of the Resolution: The foregoing resolution was adopted by the Cumberland County Board of Commissioners on December 16, 2013 and was first published on December ____, 2013.

Any action or proceeding questioning the validity of this resolution or the creation of the Bragg Estates Water and Sewer District or the inclusion in the district of any of the territory described in the resolution must be commenced within 30 days after the first publication of the resolution.

This resolution shall be effective upon its adoption as by law provided.

Adopted this 16th day of December, 2013.

Jeffrey Brown, Engineering and Infrastructure Director, reviewed the background information as recorded above and stated notices of the public hearing were posted at the entrance to the subdivision and advertised in the newspaper on two different times.

Mr. Brown stated his office received a request earlier in the day from property owner Frances Merlee Tart to include her property within the district boundary. Commissioner Edge asked whether there was any development on the Tart property. Mr. Brown responded it was an undeveloped 8.45 acre tract. Commissioner Keefe inquired regarding the number of failing septic tanks in the district and the number of residential lots. Mr. Brown stated there are approximately 150 lots and at this time, there are seven identified unrepairable septic tanks for structures on lots within the subdivision.

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

Chairman Council opened the public hearing.

The clerk to the board called the following speakers:

Frances Merlee Tart – Ms. Tart appeared in favor and stated her late husband built the subdivision but the building stopped because of soil problems. Ms. Tart stated installing sewer would allow more of the property to be developed. Ms. Tart stated the addition of sewer would enhance the value of her property and existing homes in the area.

Jerry Ricker – Mr. Ricker appeared and stated he was opposed because the sewer would be paid for by homeowners for the benefit of developers. Mr. Ricker stated failing septic systems can be replaced and loans and grants need to be sought to help families replace those systems, not to help developers. Mr. Ricker stated he was not looking forward to spending a lot of money connecting to a sewer system he did not need. Mr. Ricker encouraged the Board to solicit input from more of the homeowners.

Matthew Guy – Mr. Guy appeared in opposition and stated he was a resident of Bragg Estates and opposed to the installation of sewer.

Patricia Notine – Ms. Notine appeared in opposition and stated county officials told her in 2009 that installing public sewer would require a petition signed by 51% of the homeowners. Ms. Notine stated in 2009, homeowners did not want to sign a petition for a sewer system. Ms. Notine stated she replaced her septic system in 2008 at a cost of over \$8,000 and relocated her failed system to an adjacent lot. Ms. Notine stated it would be cheaper for the county to relocate the failed septic systems.

Betty Guy – Ms. Guy appeared in opposition and stated she is using the septic system that was built with the house in 1970. Ms. Guy stated her understanding is that a lot of the homes in Bragg Estates have an excessive number of people residing in them which overloads the septic systems on those properties. Ms. Guy stated she cannot afford the expenses associated with the installation and use of a sewer system and feels that any septic issues can be resolved in some other manner.

Chairman Council closed the public hearing.

Mr. Brown responded to questions. Commissioner Faircloth asked how this matter came about and what input individuals in Bragg Estates would have. Mr. Martin stated this matter goes back several years and the county has received complaints about sewage bubbling up from the ground. Mr. Martin stated there has been interest expressed by some of the residents, possibly those with failed septic systems, and the creation of the district would only create a geographic footprint and give county government a separate

legal entity through which to apply for loans and grants. Mr. Martin stated the board of commissioners would be the governing body over the district if it is created.

Commissioner Edge asked if the district was created, would there be a point in time where property owners a vote. Mr. Martin stated if there was a proposal to issue debt, then there would have to be a bond referendum. Mr. Moorefield clarified it would depend on the source of the funding; a USDA loan would require a bond referendum respective to the financing.

Commissioner Keefe asked whether this was a seven septic system problem or a larger problem. Daniel Ortiz, Environmental Health Director, stated permits have been issued for partial repairs and advised most of the septic systems are forty to fifty years old. Mr. Ortiz this is a potential larger problem because more and more septic systems will start to fail and there will be no space to fix them. Mr. Ortiz stated partial repairs are being done because there is a lack of available space to repair. Mr. Ortiz also stated property owners can apply for a pump and haul permit to pump the system out weekly or even more often because drain lines cannot be used.

Commissioner Keefe asked if further building permits would be issued in the area when considering its current state. Mr. Ortiz stated each lot will have to be individually evaluated upon receipt of a permit application. Commissioner Keefe asked whether repair and/or failures occurred in a concentrated area or whether they were more widespread. Mr. Ortiz responded there are several concentrated areas and the lower lots are experiencing the most problems. Commissioner Keefe asked if there could be a community septic system. Mr. Ortiz stated it would have to be a large off-site system. Additional questions followed.

Mr. Moorefield advised a vote of the property owners would depend on the type of financing and even though there may be no legal requirement for a vote, the board could call for one should it so desire. Mr. Moorefield stated in 2009 when the 51% petition was required, it was for a proposal to conduct a county assessment, not to create a district.

MOTION: Commissioner King moved to adopt the resolution to create the Bragg Estates Water and Sewer District.

SECOND: Commissioner Edge

VOTE: UNANIMOUS (7-0)

Items of Business

5. Presentation of Tourism Development Authority Annual Report by Vivek Tandon, Chairman

BACKGROUND:

Mr. Vivek Tandon, Chairman of the Tourism Development Authority, will be presenting the annual report at the December 16, 2013 Board of Commissioners meeting.

During the fiscal year ended June 30, 2013 the Occupancy Tax netted \$5,099,602.18 in revenue.

These funds have been distributed as follows:

Cumberland County Crown Coliseum	\$ 1,274,900.55
Arts Council of Fayetteville	1,274,900.55
Fayetteville Area Visitors and Convention Bureau	2,337,317.66
TDA Discretionary Funds	<u>212,483.42</u>
Total	\$ 5,099,602.18

TDA Discretionary Funds:

Balance July 1, 2012 (unobligated)	\$ 756,604.19
Funds received for the fiscal year	212,483.42
1 Funds returned or not requested by recipient	3,255.65
Less obligations during the fiscal year	(248,620.34)
Less minimum balance	<u>(100,000.00)</u>
Balance June 30, 2013 (unobligated)	\$ 623,722.92

During the year, the TDA obligated funds for the following projects:

CVB Joint Marketing Plan (D'Town Devel, ASOM & Vet Park)	\$ 75,000.00
Epsilon Alpha Boule-Sigma Pi Phi Fraternity	17,750.00
Junior League of Fayetteville - Holly Day Fair	25,000.00
Fayetteville Duck Derby	<u>11,313.69</u>
Total	\$ 129,063.69

During the year, the TDA paid obligations from previous fiscal years for the following projects:

Greater Spring Lake Chamber of Commerce	\$ 6,000.00
Cape Fear Botanical Garden	\$ 13,500.00
Hope Mills Chamber of Commerce	\$ 18,000.00
NC Civil War Trails / FAVCB	<u>1,600.00</u>
Total	\$ 39,100.00

As of June 30, 2013 the TDA had the following outstanding obligations:

NC Civil War Trails / FAVCB	\$ 4,500.00
Cape Fear Botanical Garden	17,788.00
Fay-Cumberland Parks & Rec - Christmas in the Park	15,000.00
Hope Mills Chamber of Commerce	19,913.00
Swamp Dogs - 4th of July Fireworks	<u>20,000.00</u>
Total	\$ 77,201.00

Note: some of the obligations mentioned above span more than one fiscal year.

Vivek Tandon, Chairman of the Tourism Development Authority, presented the report as recorded above and responded to questions.

6. Consideration of Request of Refund of Excise Tax on Conveyance

BACKGROUND:

Attorney Steve Bunce requested a refund of the overage paid by his firm on the excise tax on recording a deed. G.S. § 105-228.37 governs this refund process. The Board of Commissioners must conduct a hearing on the request. This is not a public hearing. The County may only refund one-half of the overage because the County only received one-half of the tax. The amount the county may refund is \$100. The refund will bear interest pursuant to the statute. The refund may not be made until the taxpayer records a corrected instrument stating the correct amount of the excise tax.

RECOMMENDATION/PROPOSED ACTION:

The county attorney recommends approval of the refund request after the conduct of the necessary hearing.

Mr. Moorefield reviewed the background information as recorded above.

MOTION: Commissioner Melvin moved to approve the refund request.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

7. ITEM REMOVED FROM AGENDA

8. Nominations to Boards and Committees

A. Cumberland County Workforce Development Board (1 Vacancy)

Commissioner Edge nominated Catherine Johnson to serve a third term.

9. Appointments to Boards and Committees

A. Board of Health (2 Vacancies)

Nominees:

Optometrist: Dr. William Philbrick

Engineer: Dale Price

B. Cumberland County Local Emergency Planning Committee (2 Vacancies)

Nominees:

Law Enforcement Representative: Lt. Robert Dickie

Fire Fighting Representative: Ronnie Willett

C. Joint Senior Citizen Advisory Board (1 Vacancy)

Nominee: George Hatcher Sr.

D. Transportation Advisory Board (6 Vacancies)

Nominees:

Sheltered Workshop Director or Designee: Kena Farrington (Reappointment)

Aging Programs Representative: Elouise Garvin (Reappointment)

DSS Work First Representative: Angelita Marable

Mid-Carolina Council of Governments Director or Designee: Carla Smith

Emergency Medical Services Representative: Brian Pearce

MPO Representative: Deloma West

There being an equal number of vacancies and nominees,

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

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

10. Closed Session: A. Attorney/Client Matter(s) Pursuant
To NCGS 143-318.11(a)(3)

B. Personnel Matter(s) Pursuant
To NCGS 143-318.11(a)(6)

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

SECOND: Commissioner Edge

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Edge moved to go into open session.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to adjourn.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (6-0)

There being no further business, the meeting adjourned at 9:36 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board