

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
OCTOBER 21, 2013 – 6:45 PM  
117 DICK STREET, 1<sup>ST</sup> FLOOR, ROOM 118  
REGULAR/REZONING MEETING  
MINUTES

PRESENT: Commissioner Jimmy Keefe, Chairman  
Commissioner Jeannette Council, Vice Chair  
Commissioner Kenneth Edge  
Commissioner Charles Evans  
Commissioner Marshall Faircloth  
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  
Joey Lewis, Code Enforcement Officer  
Tom Lloyd, Planning and Inspections Director  
Lisa Childers, Cooperative Extension Director  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Chairman Keefe called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Edge 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 Keefe recognized the clerk to the board who stated there were no speakers for the public comment period.

Recognition of Outgoing Board Members:

Marvin Rouse, Department of Social Services Board

On behalf of the Board of Commissioners, Commissioner Melvin recognized Marvin Rouse with a certificate of appreciation for having served on the Social Services Board. Mr. Rouse offered comments about his service on the Social Services Board.

Amy Garner, Mental Health Center Area Board

Liliana Parker, Mental Health Center Area Board

Alejandro Vazquez, Mental Health Center Area Board

Allie Wiggins, Mental Health Center Area Board

Dr. Mary Hales, Mental Health Center Area Board

On behalf of the Board of Commissioners, Commissioner Edge recognized Liliana Parker, Alejandro Vazquez, Allie Wiggins and Dr. Mary Hales with certificates of appreciation for having served on the Cumberland County Mental Health Area Board. Ms. Parker, Mr. Vazquez, Ms. Wiggins and Dr. Hales offered comments about their service on the Mental Health Area Board. Amy Garner was unable to attend.

Recognition of Ruthy Vorder Bruegge as Cumberland 4-H Youth Delegate at North Carolina Association of County Commissioners (NCACC) Youth Summit

Lisa Childers, Cooperative Extension Director, stated since 2009 the North Carolina Association of County Commissioners (NCACC) has partnered with the North Carolina 4-H to educate youth about politics and government. Ms. Childers stated through this program teenagers experience some of the highlights of being a county commissioner. Ms. Childers stated Ruthy Vorder Bruegge, a 4-H'er from Cumberland County, attended the fourth annual North Carolina Association of County Commissioners (NCACC) Youth Summit that was held August 23-24, 2013 in Greensboro, North Carolina.

Miss Vorder Bruegge, a senior at Massey Hill Classical High School, stated she had been involved with 4-H for eight years and had learned a lot through the organization. Miss Vorder Bruegge reported on her experience representing Cumberland County at the NCACC conference and stated her favorite part was participating in a budget simulation during which she learned about compromising. Ms. Vorder Bruegge stated she also learned a lot about county government and developed a new found appreciation for boards of county commissioners and Cumberland County.

Recognition of Cumberland County Retiree:

Zynovia Nash, Cumberland County Mental Health

On behalf of the Board of Commissioners, Commissioner King recognized Zynovia Nash and presented her with a plaque honoring her years of service with the county. Ms. Nash expressed her appreciation.

James Martin, County Manager, asked the board to consider the following adjustment to the agenda:

- Change \$250,000 to \$175,000 under budget revision Item 2.G.(1).
- Remove minimum housing code enforcement public hearing Item 3.F. (MH233-2013) from the agenda as a permit has been acquired to rehabilitate the structure.
- Defer rezoning public hearing Item 3.E. (P13-35) to the November 18, 2013 meeting as requested by the petitioner.
- Both nominees under Item. 6.E. should be listed as reappointments.

1. Approval of Agenda

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

SECOND: Commissioner Edge

VOTE: UNANIMOUS (7-0)

2. Consent Agenda

A. Approval of minutes for the October 7, 2013 regular and special meetings of the Board of Commissioners

B. Approval of Cumberland County Finance Committee Report and Recommendation:

1) Funding Request for State Veterans Cemetery Project

BACKGROUND:

The Cumberland Community Foundation is seeking to make improvements at the Sandhills State Veterans Cemetery. The State has appropriated \$125,000 to the Division of Veterans Affairs to construct an enclosed committal structure at the cemetery; however, the total estimated cost of the project is \$300,000.

The Cumberland Community Foundation is requesting a \$10,000 contribution from Cumberland County to be used for the committal structure project. After reviewing the contribution request with the Legal Department, it was determined that a contribution by the County can be made upon approval of the Board of Commissioners since the County does have statutory authority to fund non-profits.

RECOMMENDATION/PROPOSED ACTION:

Consider the recommendation of the Finance Committee to appropriate fund balance in the amount of \$10,000 to the Cumberland Community Foundation to be used towards the committal structure at the Sandhills State Veterans Cemetery.

2) Extension of Current Sales Tax Distribution Interlocal Agreement as Requested by the Cumberland County Mayors' Coalition

BACKGROUND:

At its October 3, 2013 meeting, the Finance Committee voted to recommend that the full board approve the request of the Mayors' Coalition to extend the interlocal agreement for the sales tax distribution for seven years in addition to the current extension of three years. This will extend the term of the agreement from June 30, 2016 to June 30, 2023. The Finance Committee also directed that a provision be added to the agreement that would allow any of the parties to terminate the agreement if the General Assembly changes the current distribution statute. That change has been made to the proposed agreement.

**RECOMMENDATION/PROPOSED ACTION:**

Consider the Finance Committee's recommendation to extend the sales tax distribution agreement for an additional seven years.

STATE OF NORTH CAROLINA

INTERLOCAL AGREEMENT

COUNTY OF CUMBERLAND

THIS INTERLOCAL AGREEMENT is entered into in the year 2013 as indicated by the date executed by each party, by and among the City of Fayetteville (hereinafter "Fayetteville"), the Town of Hope Mills (hereinafter "Hope Mills"), the Town of Spring Lake (hereinafter "Spring Lake"), the Town of Stedman (hereinafter "Stedman"), the Town of Wade (hereinafter "Wade"), the Town of Falcon (hereinafter "Falcon"), the Town of Godwin (hereinafter "Godwin"), the Town of Linden (hereinafter "Linden"), the Town of Eastover (hereinafter "Eastover"), and the County of Cumberland (hereinafter "County").

**RECITALS:**

WHEREAS, sales tax revenues have been distributed among the parties to this agreement pursuant to an interlocal agreement dated October 31, 2003, effective for the fiscal year which commenced on July 1, 2004, and as amended and supplemented from time to time (hereinafter "the Sales Tax Distribution Interlocal Agreement"); and

WHEREAS, the most recent amendment to the Sales Tax Distribution Interlocal Agreement was adopted during the month of April, 2013, to extend the agreement through the fiscal year ending June 30, 2016; and

WHEREAS, the parties deem it in the best interests of their citizens to extend the agreement further pursuant to the additional terms contained herein.

NOW, THEREFORE, the parties agree that the existing Sales Tax Distribution Interlocal Agreement shall be extended and remain in effect for a period of ten (10) additional fiscal years beyond the expiration of the original agreement until June 30, 2023 in accordance with all the terms and provisions contained therein, except that the initially incorporated area of the Town of Eastover shall no longer be treated as an annexation to the end that only those annexations by the Town of Eastover since its incorporation shall be subject to this agreement.

The parties further agree that if the General Assembly makes any change to North Carolina General Statute § 105-472, or enacts any other law or private act which has the effect of modifying the distribution method prescribed by North Carolina General Statute § 105-472, then any of the parties may terminate this agreement by delivering notice to the Clerk for every other party; provided that such termination shall only be effective for the first fiscal year for which notice was given by January 1 in the preceding fiscal year. The parties agree that this termination provision is intended to provide the County Board of Commissioners sufficient time to choose the distribution method as presently set out in the statute.

This extension of the Sales Tax Distribution Interlocal Agreement shall be a continuing interlocal agreement which shall be approved by the governing body of each party and entered the minutes of the meeting at which it is approved.

IN WITNESS WHEREOF the parties, intending to be bound and by authority duly given, have caused this Agreement to be signed by their appropriate officials, the day and year designated by each.

### 3) Policy for Engaging Outside Legal Counsel

#### BACKGROUND:

At its August 19, 2013 meeting, the Board directed staff to prepare a policy to address the conditions under which outside counsel shall be engaged. Because this is really a fiscal policy, it was sent to the Finance Committee. At its October 3, 2013 meeting, the Policy Committee voted to recommend the following policy to the full Board of Commissioners:

#### 1.0 PURPOSE

The purpose of this policy is to establish the conditions under which outside counsel may be engaged for the provision of legal services to the county. Outside counsel shall mean any attorney who is not an employee of the county.

#### 2.0 SCOPE

This policy shall apply to the engagement of any lawyer or law firm to provide legal services for which county funds shall be used to pay for the services provided.

#### 3.0 STATEMENT OF THE POLICY

No county funds shall be expended to pay for legal services provided by outside counsel unless the lawyer or law firm providing the services has been engaged to provide the services by a written agreement describing the services to be provided and the fee arrangement and which has been approved by the Board of Commissioners before the provision of services commences. When appropriate, Board approval may be obtained in closed session.

#### 4.0 IMPLEMENTATION

Implementation of this policy shall be the responsibility of the Finance Officer.

**RECOMMENDATION/PROPOSED ACTION:**

Consider the recommendation of the Finance Committee to adopt the policy.

- C. Approval of Grant of Easement to Allison Holdings, LLC at the Site of the Shell Building

**BACKGROUND:**

Allison Holdings LLC purchased the shell building site. It has requested an easement on adjoining county-owned property to install a sewer lateral from an existing sewer line located upon the county's property to the common boundary line of the two properties. The dimensions of the easement area are 10' by 50'. It is to be located upon the county's parcel approximately 470' from the right-of-way of Tom Starling Road. N.C.G.S. § 160A-273 permits counties to grant easements without receiving consideration.

The easement is on a vacant parcel fronting on Tom Starling Road which is available as an industrial site. An aerial photo of the lot is attached. The county attorney notes that the easement agreement prohibits any fencing across the easement except with a gate. There is no requirement that the gate remain unlocked. This fencing prohibition may be an issue if the site is ever sold to an industry which wishes to fence its boundary. There are no other conditions in the easement that are unduly burdensome.

**RECOMMENDATION/PROPOSED ACTION:**

Consider whether to grant the easement with or without the fencing prohibition.

- D. Approval of Declaration of Surplus County-Owned Property and Authorization to Accept Insurance Settlement

**BACKGROUND:**

DATE OF ACCIDENT	October 2, 2013
VEHICLE	2008 Ford Expedition
VIN	1FMFU15568LA60542
FLEET #	FL348
DEPARTMENT	Sheriff's Office
SETTLEMENT OFFER	\$12,540.79
INSURANCE COMPANY	Travelers

This is a total loss settlement offer.

**RECOMMENDATION/PROPOSED ACTION:**

Management recommends that the Board of Commissioners:

1. Declare the vehicle described above as surplus.
2. Authorize the Risk Manager to accept \$12,540.79 as settlement.

3. Allow Travelers Insurance to take possession of the wrecked (surplus) vehicle.
- E. Approval of Sale of Surplus County-Owned Real Property Acquired by Tax Foreclosure – PIN: 0437-83-9763; Cross Creek Township

**BACKGROUND:**

On or about May 19, 2008, the County acquired by tax foreclosure the above property. The amount currently owed on the foreclosure judgment including interest and costs for the property is \$5,588.87.

Annette Thomas has offered to purchase the County's interest in the property for \$5,588.87 and has deposited \$588.89 in the Finance Office. The tax value of the property is \$5,000.00.

This property is surplus to the needs of the County and, according to N.C.G.S. §153A-176 and N.C.G.S. §105-376, the County has the authority to sell such property. Management has reviewed this offer and it is now being submitted for the Board to consider whether or not to accept Annette Thomas' bid. The property has been advertised and this office has not received any upset bids. The bid period is now closed.

**RECOMMENDATION/PROPOSED ACTION:**

That the Board of Commissioners consider whether to accept the offer of Annette Thomas to purchase the above property for the sum of \$5,588.87, plus advertising and recording costs, and authorize the Chairman to execute a deed upon receipt of the balance of the purchase price.

- F. Approval of a Resolution Approving the Release of Reversion Rights in Those Parcels Located at 3533 Furman Drive and 1617 Roxie Avenue and Occupied by Stanton Hospitality House

**BACKGROUND:**

Cape Fear Valley Health System, Inc., (the "Hospital") has requested that the County release its reversionary interest in the two parcels located 3533 Furman Drive and 1617 Roxie Avenue. These were two of the seventy-plus parcels that were deeded to the Hospital through the Transfer Agreement in 2006. The County retained a reversionary interest in all those parcels.

Although these parcels have addresses on different streets, they actually adjoin each other in the intersection of Roxie and Furman. They have been used by the Hospital as lodging for family members of patients. The Hospital wishes to deed these parcels to a non-profit corporation which has been set up for the same purpose. The Hospital requests that the County release its reversionary interest so the non-profit will own the properties outright and have the full right to mortgage or sell these properties as it deems fit in order to promote its charitable purpose.

**RECOMMENDATION/PROPOSED ACTION:**

County attorney recommends that the Board adopt the resolution as recorded below to approve this transaction.

STATE OF NORTH  
CAROLINA

PARTIAL RELEASE

COUNTY OF  
CUMBERLAND

Brief Description for Index: Lots 36 and 37, Welmar Heights III

THIS PARTIAL RELEASE is made effective this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the COUNTY OF CUMBERLAND, NORTH CAROLINA, a political subdivision of the State of North Carolina, acting by and through its Board of Commissioners, and having an address of 117 Dick Street, Fayetteville, NC 28301, Attn: County Manager (the "County").

WHEREAS, pursuant to that certain North Carolina Bill of Conveyance and General Warranty Deed dated May 2, 2006 and recorded in the Cumberland County Registry at Book 7225, Page 436 (the "Vesting Deed"), the County did convey to Cumberland County Hospital System, Inc., d/b/a Cape Fear Valley Health System, a North Carolina nonprofit corporation (the "Health System") certain parcels of real property including, without limitation, the two parcels more fully described on Exhibit A attached hereto and incorporated herein by reference (collectively, the "Released Property"); and

WHEREAS, the Released Property was conveyed to the Health System subject to (i) an express reversionary interest in favor of the County, and (ii) an express right of re-entry in favor of the County, each as more fully set forth in the Vesting Deed; and

WHEREAS, the County does now wish to expressly terminate and release the Released Property from each of (i) the express reversionary interest in favor of the County, and (ii) the express right of re-entry in favor of the County, solely to the extent that same apply to the Released Property, such that the Health System shall hold title to the Released Property in fee simply absolute.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the County does hereby remise and release and by this instrument does remise, release, and forever quitclaim unto the Health System, its successors and assigns, all of the County's rights, title and interest (including all reversionary interests) in and to the Released Property. This Partial Release does not release any of the other property described in the Vesting Deed from any of the reversionary interests in favor of the set forth therein.

TO HAVE AND TO HOLD the Released Property unto the Health System, its successors and assigns, free and discharged from the reversionary interests and right of entry set forth in the Vesting Deed and from the claims of any and all persons thereunder.

EXHIBIT A  
Property - Legal Description

All references to recording information shall refer to documents that were recorded in the Register of Deeds for Cumberland County, North Carolina.

Parcel 1:

State of North Carolina, County of Cumberland, City of Fayetteville, BEING 0.37 acres, more or less, and being all of Lot 37 in Welmar Heights, Section III, as per plat of same recorded in Book of Plats 22, Page 37 of the Cumberland County Public Registry, to which reference is hereby made for a more particular description of same.

Parcel 2:

State of North Carolina, County of Cumberland, City of Fayetteville, BEING all of Lot 36 in Welmar Heights, Section III, as per plat of same recorded in Book of Plats 23, Page 58 of the Cumberland County Public Registry, to which reference is hereby made for a more particular description of same.

BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY  
RESOLUTION APPROVING THE PARTIAL RELEASE OF CERTAIN  
REVERSIONARY INTERESTS IN THE REAL PROPERTY USED BY THE  
STANTON HOSPITALITY HOUSE

WHEREAS, the County has previously conveyed to Cumberland County Hospital System, Inc., d/b/a Cape Fear Valley Health System (“CFVHS”), certain real property associated with the operations of the health care system formerly operated by the County, pursuant to that certain North Carolina Bill of Conveyance and General Warranty Deed dated May 2, 2006 and recorded at Book 7225, page 436 in the Cumberland County Registry (the “Conveyance Deed”); and

WHEREAS, among the parcels conveyed pursuant to the Conveyance Deed were 3353 Furman Drive and 1617 Roxie Avenue (collectively, the “Property”), from where CFVHS has operated the Stanton Hospitality House as a department of the health care system for the purpose of providing free or low cost temporary residential accommodations to families of inpatients of CFVHS and other local area hospitals; and

WHEREAS, the Conveyance Deed contains certain reversionary interests in favor of the County and encumbering the Property, which would be triggered in the event that CFVHS fails to meet certain obligations related to the operations of the health care system, as more fully set forth in the related Transfer Agreement dated May 4, 2006 (the

“Transfer Agreement”) which Transfer Agreement is attached to the Conveyance Deed; and

WHEREAS, CFVHS has elected to transfer ownership and operations of the Stanton Hospitality House to a third party known as Stanton Hospitality House, Inc., a North Carolina nonprofit corporation (“SHH”); and

WHEREAS, in furtherance thereof, CFVHS and the Cape Fear Valley Medical Foundation, Inc. have made certain support commitments to SHH and CFVHS has agreed to contribute and convey the Property to SHH; and

WHEREAS, the reversionary interests in favor of the County with respect to the Property will materially hinder SHH’s ability to finance or sell any portion of the Property in the future to support the operations of Stanton Hospitality House; and

WHEREAS, neither the Property nor the operations of Stanton Hospitality House are material to the operations of the health care system by CFVHS; and

WHEREAS, the Board of Commissioners does find that it is in the best interest of the community and the future operations of the Stanton Hospitality House for SHH to own the Property free and clear of any revisionary interests set forth in the Conveyance Deed; and

WHEREAS, Cumberland County now wishes to memorialize its consent to the release of the Property from the reversionary interests set forth in the Conveyance Deed.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CUMBERLAND COUNTY, NORTH CAROLINA, AS FOLLOWS:

Section 1. Cumberland County hereby consents to the release of the Property from the reversionary interests set forth in the Conveyance Deed.

Section 2. The Chairman and the Clerk be, and they hereby are, authorized to execute a Partial Release in the form attached hereto and authorize same to be recorded in the Cumberland County Registry, and to do and perform all acts and to execute and deliver for and on behalf of Cumberland County any and all additional instruments, documents, opinions, certificates, certifications, agreements, assignments or other papers and do and perform all other acts, as may be required by the documents or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this resolution.

Section 3. That this resolution shall become effective on the date of its adoption.

ADOPTED this the 21<sup>st</sup> day of October, 2013.

G. Budget Revisions:

(1) Mental Health Other

Revision in the amount of \$175,000 to appropriate Mental Health fund balance to reimburse Cape Fear Valley Medical Center for operating losses in an amount not to exceed \$175,000 for the period of January thru June 2013. (B14-183) Funding Source – Mental Health Fund Balance Appropriated

(2) Crown Center/Food & Beverage Tax Fund

Revision in the amount of \$114,000 to budget a transfer from the Prepared Food and Beverage Tax Fund to fund transition costs of \$50,000 incurred by Global Spectrum and to budget the FY2014 Global Spectrum management fee of \$64,000. (B14-191 and B14-191A) Funding Source – Prepared Food and Beverage Tax Fund Fund Balance Appropriated

MOTION: Commissioner King moved to approve consent agenda Item 2.A. – Item 2.G.(2)  
SECOND: Commissioner Melvin  
VOTE: UNANIMOUS (7-0)

3. Public Hearings

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

Uncontested Rezoning Case

- A. Case P13-38: Rezoning of 9.88+/- acres from A1 Agricultural to R40 Residential or to a more restrictive zoning district; located west of SR 1006 (Wade Stedman Road), northwest of SR 1006 (Maxwell Road); submitted by Ernest A. Jr. and Ruth Bunce (owners).

Staff Recommendation: Adopt and approve the reasonableness statement, find request consistent with LUP and approve R40.

Planning Board Recommendation: Approve Staff Recommendation.

RECOMMENDATION: Members present at the September 17, 2013 meeting of the Joint Planning Board recommended following the staff recommendation and to adopt and approve the reasonableness statement, find request consistent with LUP and approve R40.

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

Chairman Keefe opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Keefe closed the public hearing.

MOTION: Commissioner Faircloth moved to approve staff recommendation to adopt and approve the reasonableness statement, find request consistent with LUP and approve R40 in Case P13-38.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

- B. Case P13-39: Rezoning of 3.07+/- acres from R6A Residential to C2(P) Planned Service and Retail or to a more restrictive zoning district, located at 3857 Legion Road, submitted by Greg McLean on behalf of Trace Investments, LLC. (owner) and Michael J. Adams PLS.

Staff Recommendation: Adopt and approve the reasonableness statement, find request consistent with LUP and approve C2(P).

Planning Board Recommendation: Approve Staff Recommendation.

RECOMMENDATION: Members present at the September 17, 2013 meeting of the Joint Planning Board recommended following the staff recommendation and to adopt and approve the reasonableness statement, find request consistent with LUP and approve C2(P).

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

Chairman Keefe opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Keefe closed the public hearing.

MOTION: Commissioner Council moved to follow the recommendation of the Joint Planning Board to adopt and approve the reasonableness statement, find request consistent with LUP and approve C2(P) in Case P13-39.

SECOND: Commissioner King

VOTE: UNANIMOUS (7-0)

- C. Case P13-42: Rezoning of 3.65+/- acres from R6A Residential to C(P) Planned Commercial or to a more restrictive zoning district; located on the southwest side of SR 1810 (Godwin Falcon Road), northwest of SR 1806 (Sherrill Baggett Road); submitted by Clifton L. Jr. and Josephine Turpin on behalf of Turpin Rentals LLC. (owner) and David R. Evans.

Staff Recommendation: Adopt and approve the reasonableness statement, find request consistent with LUP and approve C(P).

Planning Board Recommendation: Approve Staff Recommendation.

RECOMMENDATION: Members present at the September 17, 2013 meeting of the Joint Planning Board recommended following the staff recommendation to adopt and approve the reasonableness statement, find request consistent with LUP and approve C(P).

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

Chairman Keefe opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Keefe closed the public hearing.

MOTION: Commissioner King moved to adopt and approve the reasonableness statement, find the request consistent with the LUP and approve C(P) in Case P13-42.

SECOND: Commissioner Edge

VOTE: UNANIMOUS (7-0)

#### Contested Conditional Zoning Case

D. Case P13-45: Rezoning of 978.40+/- acres from A1 Agricultural to A1/CZ Agricultural/Conditional Zoning district for an outdoor firing range and agricultural uses or to a more restrictive zoning district, located at 2850 Tigerswan Drive, submitted by D. Stewart Precythe on behalf of Precythe Properties, LLC. (owner) and Steven M. Swierkowski on behalf of TigerSwan, Inc.

Staff Recommendation: Adopt and approve the reasonableness statement, find request consistent with LUP and approve A1/CZ for outdoor firing range and agricultural uses with conditions.

Planning Board Recommendation: Approve Staff Recommendation with added condition concerning operating hours.

RECOMMENDATION: Members present at the October 1, 2013 meeting of the Joint Planning Board recommended following the staff recommendation to adopt and approve the reasonableness statement, find request consistent with LUP and approve A1/CZ for outdoor firing range and agricultural uses with conditions and added condition concerning operating hours.

BACKGROUND:

The county attorney is providing this memo as background information with the hope that it will help the commissioners to understand why the rezoning is being requested. Case P13-45 is a rezoning application that is being considered by the Board of Commissioners for the first time. It is the first application for a rezoning for a firing range use under the amendment to regulate firing ranges that was adopted by the Board in June of this year. The history of the TigerSwan zoning permits follows:

#### THE FIRST PERMIT:

TigerSwan was issued the first permit for its shooting range on June 11, 2010. That permit was issued pursuant to the ordinance that was in effect at that time. Under that ordinance, if a use of land was not classified, it was prohibited. There was no classification for firing ranges in the ordinance. Under that ordinance, planning staff had consistently attempted to find a classification for every lawful use. That first permit was issued by staff by an interpretation of the ordinance language that the TigerSwan facility was a private school. That interpretation was supported by the former county attorney in 2009 when the application was received.

A group of county property owners challenged the issuance of the permit on the basis that TigerSwan was not a private school. The Superior Court ruled in favor of TigerSwan in that case. The Court of Appeals overturned the Superior Court and ruled that the TigerSwan facility was not a private school because the language in the county ordinance could only be interpreted as meaning that a private school must be an elementary or secondary school, which TigerSwan was not. The Court of Appeals did not address the issue of what TigerSwan was; however, the result was that TigerSwan's permit was not valid.

#### THE SECOND PERMIT:

In April, 2011, the Board of Commissioners adopted the Planning Board's recommendation to amend the zoning ordinance to make every use of land allowed as a use by right unless the use was specifically prohibited. This amendment was adopted in response to a zoning decision by the Court of Appeals that was totally unrelated to the TigerSwan case. The ordinance amendment further required the Planning Director to apply the same standards to an unclassified use as were applied to the classified use which produced the most similar impacts to adjoining properties. This is the ordinance under which TigerSwan applied for its second zoning permit.

The Planning Director determined that the use most similar to TigerSwan's use was that of outdoor recreation for profit with mechanized vehicles. The Planning Director based his decision on his perception that the primary nature of the complaints in the first lawsuit was about noise generated by the firing range. The Current county attorney supported, and still supports, the Planning Director's decision in issuing the second permit on this basis. The second permit was issued May 3, 2012.

The group of property owners appealed the Planning Director's decision to the Board of Adjustment. The Board of Adjustment upheld the Planning Director's decision. The group of property owners appealed the decision of the Board of Adjustment to the Superior Court. The Superior Court overruled the Board of Adjustment and ruled that the

TigerSwan facility is a vocational school which is not permitted under the ordinance in an A1 zoning district. The Superior Court ordered the Board of Adjustment to revoke TigerSwan's permit. It is important to note that the Superior Court decided this second case under the ordinance that was in effect at the time the second permit was issued. The time for appealing this Superior Court decision to the Court of Appeals has not run. There are still two motions pending in this case that were heard October 10.

**CASE P13-45:**

The Board of Commissioners amended the ordinance in June to establish regulations for outdoor firing ranges. TigerSwan has applied for a third permit and the new regulations apply to that permit. The new ordinance applies conditional zoning to an outdoor firing range. This requires both the Planning Board and the Board of Commissioners to make a legislative rezoning decision which requires a public hearing. The Planning Board heard this case on October 1 and found that TigerSwan had provided a licensed engineer's certification that its facility fully complies with the regulations contained in the county ordinance. The Planning Board, with the consent of TigerSwan, imposed a condition controlling the hours of operation. The Planning Board voted to recommend approval of the permit with the condition controlling the hours of operation. That is now what is before the Board of Commissioners

**RECOMMENDATION/PROPOSED ACTION:**

The county attorney advises that the Tigerswan facility is an outdoor firing range within the definition contained in the current ordinance. The ordinance requires the engineer's certification because the county does not have staff resources to make that determination. The engineer's certification has been provided. TigerSwan consented to the additional condition requested by the Planning Board. The county attorney advises that under these circumstances, TigerSwan has complied with the county Zoning Ordinance and must be permitted.

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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 called attention to the surface danger zones for the outdoor firing range and stated these zones show no projectiles will leave the site. Mr. Lloyd also called attention to the multi-purpose ranges, long range shooting and pistol range.

Mr. Lloyd stated the Planning & Inspections Staff recommended approval of the requested rezoning to A1Agricultural/CZ Conditional Zoning district for an outdoor firing range and agricultural uses based on staff findings of consistency and reasonableness which staff recommendations had been adopted by the Planning Board.

The findings of consistency and reasonableness adopted by the PB are as follows:

1. The request for A1 Agricultural and the use as an outdoor firing range coupled with the continued farming of the subject property is consistent with the 2030 Growth Vision Plan and Growth Strategy Map, which designates the area where the subject

property is located as “rural” and is also consistent with the mandated location criteria for “agricultural” as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan;

2. The specific requested use of an outdoor firing range, evidenced by the application, site plan and supplemental documents, along with the attached Ordinance Related Conditions is reasonable as all of the provisions listed in the text amendment approved by the County Commissioners on June 17, 2013, including all other zoning ordinance standards, for outdoor firing ranges is met or exceeded;

3. If developed according to the recommended plan, the use will not materially endanger the public health or safety as it is designed and constructed to be consistent with the safety guidelines of the US Department of Energy’s Range Design Criteria as documented by a licensed professional engineer and included with the application and the range complex is in harmony with the area in which it is to be located.

Mr. Lloyd advised the public hearing is for a rezoning and prior court cases are not to be considered. Mr. Lloyd stated the rezoning is based on an ordinance amendment approved by the Board June 17, 2013 in which firing ranges were added as a permitted use but subject to conditional zoning. Mr. Lloyd advised if TigerSwan has complied with the county zoning ordinance, it must be permitted. Mr. Lloyd advised the ordinance contains the most stringent conditions in the state for an outdoor firing range and if the rezoning is approved, TigerSwan will be permitted to operate; if the rezoning is denied, TigerSwan will have to cease operation.

Mr. Lloyd advised the ordinance amendment adopted by the Board included that the Department of Energy conditions for outdoor firing ranges had to be met and TigerSwan has met or exceeded those stringent conditions. Mr. Lloyd reviewed the Joint Planning Board’s recommendation, the additional condition regarding range operation hours and the public notice provision for extended hours. Mr. Lloyd advised there has been no request for helipad or helicopter operations and if anything outside the firing range is to be proposed, the applicants will have to return to the Planning Board and the Board of Commissioners for approval. Mr. Lloyd responded to questions.

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

Chairman Keefe advised attorneys representing the proponents and opponents will each be given five minutes to speak; speakers as proponents will be given a total of ten minutes to speak and speakers as opponents will be given a total of ten minutes to speak.

Chairman Keefe opened the public hearing.

The clerk to the board called the following speakers as proponents:

Charles Meeker – Attorney Meeker appeared in favor and stated the Chamber recruited TigerSwan because of the 978 acre site, which is over four times the minimum adopted under the ordinance, and its remote location. Attorney Meeker stated the advantage under the ordinance is

that surface danger zones can be contained entirely on the site and the firing ranges are so far away from other adjoining uses that noise is not a problem. Attorney Meeker stated firing occurs within fifteen foot berms that are thick enough to capture noise and shots that miss their targets. Attorney Meeker stated the plan meets all requirements of the text amendment and has been certified by an engineer. Attorney Meeker stated there have been no violations of any regulations by TigerSwan but two judges have ruled that the ordinance prior to the June, 2013 text amendment did not allow for this type of use in the A1 zoning district. Attorney Meeker stated the Board adopted the amendment in June, 2013 so this type of use could occur in A1 district which is the reason the conditional use is now before the Board. Attorney Meeker stated the firing range has been operating for three years under previous permits. Attorney Meeker stated contentions about excessive noise have not been confirmed by those visiting the site. Attorney Meeker reviewed the additional condition recommended by the Joint Planning Board regarding range operation hours. Attorney Meeker provided a petition signed by individuals in the area and additional signatures obtained via the internet in support of the rezoning.

Chris Bostock – Mr. Bostock appeared in favor representing the Economic Development Alliance of Fayetteville and Cumberland County and stated approval of the petitioner’s request will allow a local company to continue to grow and prosper; TigerSwan was heavily recruited by the Chamber in 2009; part of TigerSwan’s business is military contracting and military contracting is a growing business in the community; the industry fits strategically with the community’s efforts to grow jobs and capital investment; and TigerSwan’s business attracts retirees from the military who want to settle locally. Mr. Bostock stated failure to approve the request would force the company to go out of business, the owners to lose their capital investment and the employees to lose their jobs. Mr. Bostock stated denial would send a negative message to other businesses in the region that are considering investing in the community and creating jobs for citizens.

Breeden Blackwell – Mr. Blackwell appeared in favor and stated TigerSwan has invested over \$1.3 million in the firing range and improvements and the facility has ten or more employees. Mr. Blackwell stated there will be twenty more employees if the request is approved with salaries from \$70,000 to \$120,000. Mr. Blackwell stated the community is open for business and TigerSwan is a good business. Mr. Blackwell urged support of the rezoning request.

Hunter Glass – Mr. Glass appeared in favor and stated he has no current business dealings with TigerSwan but lives about three miles from the firing range and does not hear the noise TigerSwan has been accused of

generating. Mr. Glass stated training means safety and TigerSwan is the best when talking about saving lives.

Gordon Rose – Mr. Rose appeared in favor and stated as an engineer, his firm did the original layout for TigerSwan based on the Department of the Army's range safety criteria. Mr. Rose stated when the criteria changed, it was looked at again and TigerSwan meets the criteria and requirements recently passed.

Bishop Simmons – Bishop Simmons appeared in favor as minister for the Upper Room Prayer House Holiness Church, which is less than one mile from the firing range, and stated he can find no fault with TigerSwan's business. Bishop Simmons stated if the church and community need anything, TigerSwan is available to help.

Scott Manning – Mr. Manning appeared in favor as President of the Stedman Gun Club and representative of Gun Powder Gals and stated shooting as a sport should only occur in an approved range such as TigerSwan.

Stewart Precythe – Mr. Precythe appeared in favor as the owner of the property under consideration for rezoning and asked that it be approved. Mr. Precythe stated he was initially contacted by the Chamber regarding TigerSwan and it is an honor to have TigerSwan, its owner Jim Reese and its employees on the property. Mr. Precythe stated the community should be grateful to have people like those at TigerSwan as a part of it.

The clerk to the board called the following speakers as opponents:

Robin Currin – Attorney Currin appeared in opposition and stated she has represented property owners in the area of TigerSwan for three years and they adamantly oppose the rezoning. Attorney Currin stated two favorable rulings have been obtained from the courts that have held this use is prohibited at this location; therefore, TigerSwan's investment and time have been put into a use that has never been permitted on this property. Attorney Currin stated there is a place for this particular facility but this is not the right location because it is located in an environment where people work and live every day and the facility has generated noise and safety concerns. Attorney Currin stated the two previous court cases should be considered by the Board because those in opposition have been correct and prevailed each time. Attorney Currin stated just in the last week the court said the TigerSwan facility is a vocational school and the amendment to the ordinance did not change that definition. Attorney Currin stated the court said it is a prohibited use at this location and the Board of Adjustment erred in allowing it to go forward. Attorney Currin stated while the ordinance was amended, it is the opposition's unequivocal position that if the Board approves the rezoning, TigerSwan will still be a

vocational school according to the Superior Court. Attorney Currin asked that the Board deny the rezoning request or wait until matters have gone through the courts so the Board will know with certainty that what it approves is something TigerSwan can do. Attorney Currin stated TigerSwan has acknowledged and has agreed to follow the special use requirements, one of which is that it has to maintain or enhance the value of surrounding property and has to be in harmony with the area. Attorney Currin stated after hearing speakers in opposition, the Board will find out that this is not the case. Attorney Currin stated rezoning is discretionary and the Board has every right to turn down the petitioners request if it feels the neighbors will be adversely impacted, if it will devalue their property and if it is not an appropriate use at this location.

Kevin West – Mr. West appeared in opposition and stated he and his brother farm in the Cedar Creek community and own property adjacent to the TigerSwan facility. Mr. West expressed concerns regarding safety as a result of accidents, noise levels associated with the additional proposed ranges, the devaluation of their property, lack of regulatory enforcement and the effect TigerSwan has on their everyday lives and their quality of life. Mr. West outlined some of the criteria he felt TigerSwan has not met. Mr. West stated as a property owner, he has the right and expectation not to have a military training facility adjacent to the property he farms.

Keith Barnes – Mr. Barnes appeared in opposition and stated he has been a licensed real estate broker for the last eight years with an office located in Stedman. Mr. Barnes stated he handles residential and land sales in the area where TigerSwan is located, he has visited properties in the area and adjacent to the TigerSwan facility and analyzed whether in his professional opinion the facility will cause an adverse affect on properties in the area. Mr. Barnes stated it is his unequivocal opinion that it will.

Tony Lockamy – Mr. Lockamy appeared in opposition and stated his family has owned “Lockamy Land” for over 100 years and there has never been a shooting range in sight. Mr. Lockamy stated he has attempted to contact TigerSwan to no avail. Mr. Lockamy stated he has seen dust fly and heard shooting noises from TigerSwan at 7:00 pm and expressed concern for stray bullets that could kill someone. Mr. Lockamy stated he and his family cannot enjoy their land because of TigerSwan.

Billy Meins – Mr. Meins appeared in opposition and stated in December 2011, TigerSwan fired 142,000 shots in one week, and this year bus loads have come to TigerSwan from Ft. Bragg. Mr. Meins stated he has recorded 60 to 70 decibels for days on end, and he can hear the noise in his house and at night as well. Mr. Meins stated his main concern is that he cannot stand to be in his home while the shooting is occurring.

Darren Hampton – Mr. Hampton appeared in opposition and stated his concern is that TigerSwan will be allowed to operate without money being budgeted to regulate them. Mr. Hampton stated expanded operations will facilitate other activities that will infringe upon the peace and quiet of Cedar Creek. Mr. Hampton stated the 200 acre limit has limited competition for TigerSwan, which is counterproductive to a free market. Mr. Hampton stated at the meeting of the Planning Board, he heard a lot of promises about what TigerSwan was planning to do, but he did not hear about any studies conducted by the county to address noise pollution, lead contamination studies, a plan to restore farmland after TigerSwan ceases operations, the effects on wildlife or endangered species, the effects of noise on livestock or the effects on the growth of and investment by farmers.

Chairman Keefe closed the public hearing.

**MOTION:** Commissioner Council moved to follow the recommendation of the Joint Planning Board in Case P13-45 to approve A1/CZ for outdoor firing range and agricultural uses with conditions and to specifically adopt and approve the all of the Planning Board’s findings of reasonableness and consistency with the LUP and to impose the additional condition regarding hours of operation as consented to by the applicant.

**SECOND:** Commissioner Edge

**DISCUSSION:** Commissioner King inquired regarding oversight to ensure that restrictions on TigerSwan are maintained. Mr. Lloyd stated there will not be continual policing of the property and it will be complaint driven. In response to an additional question posed by Commissioner King, Mr. Lloyd explained the basis for issuing the first and second permits to TigerSwan. Commissioner Faircloth inquired regarding associated court cases. Mr. Moorefield stated the first court case in 2010 is over and the Court of Appeals overturned the Superior Court and ruled that the TigerSwan facility was not a private school. Mr. Moorefield stated the second case has been heard in Superior Court, the time to file an appeal in that case has not run and there are still two motions pending. Mr. Moorefield stated the issue currently before the Board is whether to grant the conditional rezoning under the ordinance amendment adopted in June, 2013 that applies conditional zoning to an outdoor firing range. Commissioner Faircloth asked whether the Board’s decision would impact what is before the court. Attorney Meeker stated this rezoning case is under a text amendment adopted in June, 2013 and would not affect a court case decided under the prior ordinance. Attorney Currin stated it is her opinion that the court case will have control and if the decision of the judge that TigerSwan is a vocational school and not a firing range is upheld, it will not matter what the Board decides about this rezoning case. Mr. Moorefield stated he does not agree with Attorney Currin’s opinion as just stated and advised there has been no court case under the ordinance

amendment adopted in June, 2013 and the hearing tonight is the first step in the process. Mr. Moorefield also advised Attorney Currin did not point out that before June, 2013, there was no firing range classification in the ordinance. Mr. Moorefield further advised what is before Board has to do with a new ordinance and a new issue.

**SUBSTITUTE MOTION:** Commissioner Melvin moved that the Board postpone a decision until the matters already before the courts are resolved.

**SECOND:** Commissioner Evans

**DISCUSSION:** Mr. Moorefield advised the issue currently before the Board is not related to the issue before the Superior Court. Commissioner Edge stated the county did not create the ordinance approved in June, 2013 specifically for TigerSwan but to address a number of applications to create firing ranges in the county. Commissioner Edge stated the decision currently before the Board is no different than decisions to allow other conditional uses and he felt the Board should uphold its own ordinance. Commissioner Faircloth asked whether the courts could reverse the decision made by the Board during this meeting. Mr. Moorefield stated the issue currently before the Board is not before any court. Attorney Meeker concurred. Attorney Currin stated she does not disagree that the rezoning issue under consideration by the Board is not before a court; however, the Superior Court ruled that the TigerSwan facility is a vocational school, not a firing range. Commissioner Council offered comments that stressed the importance of the military to the Cumberland County community.

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

Additional comments followed. Commissioner Faircloth stated TigerSwan is huge and beyond anything the ordinance contemplated. Commissioner Faircloth also stated this case does not fit within the ordinance because if it did, there would not be twenty-five or twenty-six conditions.

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

Chairman Keefe called for a five minute break following which Chairman Keefe reconvened the meeting.

Uncontested Conditional Zoning Case

- E. CASE P13-35 DEFERRED TO THE NOVEMBER 18, 2013 BOARD OF COMMISSIONERS MEETING AT PETITIONER'S REQUEST.

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:

- F. CASE NUMBER MH233-2013 REMOVED FROM AGENDA.

- G. Case Number: MH6786-2012  
Property Owner: Roberto Felix Robles  
Property Location: 4838 Tippit Trail, Fayetteville, NC  
Parcel Identification Number: 0433-76-3055

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 6786-2012.

Property Owner: Roberto Felix Robles  
Home Owner: Roberto Felix Robles  
Property Address: 4838 Tippit Trail, Fayetteville, NC  
Tax Parcel Identification Number: 0433-76-3055

SYNOPSIS: This property was inspected on 5/23/2012. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 9/20/2012. No one attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 10/20/2012. The property owners and parties of interest were notified of the appeal procedures when they were served with the Findings of Fact and Order. No appeal was filed. Upon my visit to the property on 10/10/2013, the required corrective action had not 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 \$47,000.00. The Assessor for Cumberland County has the structure presently valued at \$2,972.00. (Structure in utility condition.)

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

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

Chairman Keefe opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Keefe closed the public hearing.

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

SECOND: Commissioner Edge

VOTE: UNANIMOUS (7-0)

H. Case Number: MH107-2013  
Property Owner: Alvester McNeil Heirs c/o Linda Adamson  
Property Location: 5671 Cedar Creek Road, Fayetteville, NC  
Parcel Identification Number: 0473-54-9900

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 107-2013.

Property Owner: Alvester McNeill Heirs, C/O Linda Adamson  
Home Owner: Alvester McNeill Heirs, C/O Linda Adamson  
Property Address: 5671 Cedar Creek Road, Fayetteville, NC  
Tax Parcel Identification Number: 0473-54-9900

SYNOPSIS: This property was inspected on 5/21/2013. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 6/20/2013. Linda Adamson attended the Hearing. It was ordered that the structure be repaired to a minimum standard for human habitation, or be demolished and the debris removed from the premises by a date not later than 9/20/2013. 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 10/10/2013, the required corrective action had not 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 \$59,000.00. The Assessor for Cumberland County has the structure presently valued at \$2,703.00. (Structure in utility condition.)

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 Keefe opened the public hearing.

The clerk to the board advised there were no speakers.

Chairman Keefe closed the public hearing.

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

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

#### ITEMS OF BUSINESS

4. Update on Status of Federal Budget

#### BACKGROUND:

Staff will provide an update on the status of the Federal Budget as we understand it as of October 21, 2013.

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Mr. Martin called on Melissa Cardinali, Finance Director, who provided the following update on the status of the Federal Budget:

Good news:

- Congress passed a resolution Oct. 16 that funds the government through January 15, 2014, and extends the debt limit through February 7, 2014.
- The resolution restores federal funding and clarifies that states will be reimbursed for costs incurred in executing federal programs.
- In a conference call last Thursday, NC-DHHS officials assured DSS Directors that federal funding is restored and is 100 percent retroactive. DHHS said, “It is business as usual... as if the shutdown never occurred.”
- However, state officials did caution there may be slight delays in dispersing the funding as they are returning to normal operations after the shutdown.
- The State is “cautiously optimistic” as we move forward toward the next deadline.

County’s Actions:

As a recap, the County took the following prudent actions in response to the shutdown:

- County Management worked closely with departments to fully analyze the funding issues involved as the county continued to provide services
- The county manager enacted freezes on hiring, training and any spending not deemed immediately necessary.
- The county suspended only one service, which was non-medical transportation for elderly and disabled through our Community Transportation Program.
- DSS participated in calls from DHHS almost daily.
- In turn, DSS briefed county management immediately after those calls. In fact, the call last Tuesday highlighted the fact that the county is an arm of state government when all DSS Directors were instructed to “work as normal until otherwise instructed.”
- The Health Department provided daily updates to management.
- The Board of Commissioners sent a resolution to our congressional delegation.

Lessons Learned:

So, what have we learned?

- Our strong county departmental cooperation and communication were critical in navigating this crisis.
- As a result of the past few weeks, county departments are in an even better position to deal with a potential funding crisis going forward.
- The shutdown has highlighted the fact that the county is an arm of state government and we do not have total control in deciding which services we will provide.
- Finally, partnerships are critical, not only between county departments and management, but also with community agencies.

Moving Forward:

- As a result of the continuing resolution, a federal bipartisan budget committee was formed to address the federal budget. The committee was charged with formulating a spending plan before the Continuing Resolution expires January 15, 2014.
- We will be diligently monitoring federal and state actions as well as those of the bipartisan budget committee formed to address the federal budget. It is expected the committee will develop a budget plan by DEC 13 and avoid another shutdown after Jan. 15.

Mr. Martin provided the following update on county management's action plan moving forward and stated county management is open to any input or direction the Board may wish to add.

1. Management will (A) resume the 90-day hiring delay in effect prior to October 4<sup>th</sup> with certain public safety exemptions and (B) release the freeze on mission essential purchasing, travel and training. (C) Departments will continue to submit position requests to county management for approval.
2. Management continues to expect Department Heads to closely monitor their budgets - both expenditures and revenues.
3. Departments receiving federal funding will be asked to report biweekly to county management on the status of federal funding.
4. The Finance Director will provide updates to the Finance Committee regarding federal funding issues.
5. Finally, we are asking that you as elected officials continue advocating to our congressional delegation regarding the local impact of federal funding issues as the budget negotiations continue.
6. The North Carolina Association of County Commissioners (NCACC) and the National Association of Counties (NACO) will be working on this issue and keeping counties informed.

5. Nominations to Boards and Committees

- A. Cumberland County Finance Corporation and Cumberland County Industrial Facilities and Pollution Control Financing Authority (3 Vacancies)

Applicants that Graduated from County Citizens' Academy: None

Nominations were deferred to the November 4, 2013 meeting.

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

Applicants that Graduated from County Citizens' Academy: None

Commissioner King nominated Deborah J. Atkinson, Annie R. Hasan and Mary Brymer.

- C. Cumberland County Local Emergency Planning Committee (1 Vacancy)

Applicants that Graduated from County Citizens' Academy:  
Ashley Pastorius (Does Not Meet Specifications for this Committee)  
Daniel Tomita (Does Not Meet Specifications for this Committee)

Commissioner King nominated Greg Phillips.

D. Farm Advisory Board (3 Vacancies)

Applicants that Graduated from County Citizens' Academy: None

Commissioner Council nominated Kevin West.

Commissioner Faircloth nominated Clifton McNeill, Jr. and David Gillis.

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

Applicants that Graduated from County Citizens' Academy: None

Chairman Keefe nominated Manish Mehta.

F. Joint Appearance Commission (1 Vacancy)

Applicants that Graduated from County Citizens' Academy: None

Commissioner Edge nominated Matthew Auman McLean and asked to have his residency confirmed at the next meeting.

G. Minimum Housing Appeals Board (1 Vacancy)

Applicants that Graduated from County Citizens' Academy: None

Commissioner Melvin nominated Linda Amos.

6. Appointments to Boards and Committees

A. Air Quality Stakeholders' Committee (1 Vacancy)

Nominee:

Town of Eastover Stakeholder: C. Kim Nazarchyk

B. Board of Adjustment (2 Vacancies)

Nominees:

Alternate Members: Joseph Decosta  
Alfonso Ferguson Sr.

C. Cumberland County Library Board of Trustees (2 Vacancies)

Nominees: Susan Mills (Reappointment)  
Dr. Daniel Montoya

D. Joint Senior Citizens Advisory Commission (3 Vacancies)

Nominees: Roger Ison  
Edna Cogdell  
Elizabeth Deane

E. Minimum Housing Appeals Board (2 Vacancies)

Nominees:

Alternate Members: Luther M. McManus (Reappointment)  
Steve Hogan (Reappointment)

F. Transportation Advisory Board (1 Vacancy)

Nominee:

County DSS Director or Designee: Lisa Chance

There being an equal number of vacancies and nominees,

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

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

7. Closed Session: No closed session was called for this meeting.

MOTION: Commissioner Council moved to adjourn.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 8:45 p.m.

Approved with/without revision:

Respectfully submitted,

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Candice H. White  
Clerk to the Board