

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 15, 2014 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Marshall Faircloth, Vice Chairman
Commissioner Glenn Adams
Commissioner Jeannette Council
Commissioner Charles Evans
Commissioner Jimmy Keefe
Commissioner Larry Lancaster
Amy Cannon, County Manager
James Lawson, Deputy County Manager
Melissa Cardinali, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Governmental Affairs Officer
Tom Lloyd, Planning and Inspections Director
Jeffrey Brown, Engineering and Infrastructure Director
George Hatcher, Code Enforcement Officer
Joan Fenley, Code Enforcement Officer
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

ABSENT: Commissioner Kenneth Edge, Chairman

Vice Chairman Faircloth called the meeting to order and advised that Commissioner Edge was unable to be present.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Council provided the invocation followed by the Pledge of Allegiance to the American flag lead by Mitchell (Mitch) Johnson, Jr., first grader at Ed V. Baldwin Elementary School in Hope Mills.

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM)

Vice Chairman Faircloth advised each speaker would be given approximately two minutes and recognized the clerk to the board who called the following speakers:

Grady Dobson – Mr. Dobson stated he was a retired environmental engineer with DENR and his job responsibility was the permitting process for industrial waste facilities. Mr. Dobson stated recent reports are not accurate. Mr. Dobson explained land application systems.

Derb S. Carter, Jr. – Mr. Carter appeared as the director of the Southern Environmental Law Center's N. C. offices and stated the Center was asked to review an environmental report prepared by a consultant for Sanderson Farms. Mr. Carter stated the report was an attempt to address the potential impacts of processed waste water that would be sprayed at the Sanderson facility but there is no information on the constituents in the waste water, proximity of streams, ground water or ground water flow. Mr. Carter stated Sanderson Farms is seeking the same kind of permitting that hog farms receive which is a land application process to spray the waste on the land with no limitations on any pollutants.

Jerry Croll – Mr. Croll relayed a story about helping a young man find a job and stated there are a lot of people at the Employment Security Commission looking for jobs.

Rev. Reginald Wells – Rev. Wells of Fallen Run Missionary Baptist Church asked the Board to vote no on Project Destiny.

Paul Taylor – Mr. Taylor suggested that the county build a facility for the homeless so they can receive the services they need.

Chuck Kormanek – Mr. Kormanek of the Fayetteville Area Plant Managers Association appeared in favor of the Sanderson Farms project and asked the Board to consider facts and not feelings. Mr. Kromanek stated DENR will make the decision on the environmental impact of this project, not an outside firm or the Board of Commissioners.

Jackie Taylor – Ms. Taylor stated the Board has heard feelings but this doesn't mean that they haven't also hear facts from professionals on the impact Sanderson Farms will have on the environment. Ms. Taylor stated an independent impact study was requested but that was not what was given. Ms. Taylor asked the Board to consider both sides.

Vice Chairman Faircloth thanked the speakers and stated their comments would be taken into consideration.

Amy Cannon, County Manager, requested the removal of Item 3.D. and Item 5.C. from the agenda.

1. Approval of Agenda

MOTION: Commissioner Larry Lancaster moved to approve the agenda following the removal of Item 3.D. and Item 5.C. as requested.

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Faircloth to recess the Cumberland County Board of Commissioners' meeting and convene the meeting of the Bragg Estates Water and Sewer District Governing Board.

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

Vice Chairman Faircloth called the meeting of the Bragg Estates Water and Sewer District Governing Board to order.

1. Consent Agenda

A. Approval of Minutes of March 17, 2014 Special Meeting

B. Approval of Letter of Conditions from USDA Rural Development for the Bragg Estates Loan and Grant

BACKGROUND:

The Public Utilities Division of the Engineering and Infrastructure Department received notification from the USDA Rural Development on December 3rd of their intent to fund the installation of sewer within the Bragg Estates Water and Sewer District. The application may be completed on the basis of a Rural Utilities Service (RUS) loan not to exceed \$497,000, a RUS grant not to exceed \$1,453,000 and a contribution from Cumberland County of \$50,000 for a total project cost of \$2,000,000. Judy Hunt and Steve Smith with USDA Rural Development will present, for approval by the Governing Board, the "Letter of Conditions" outlining the conditions to be understood and agreed upon before further consideration will be given for the application.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and Management recommend approval of the Letter of Conditions for the Bragg Estates Water and Sewer District.

Ms. Cannon called on Area Specialists Steve Smith and Judy Hunt from the USDA Rural Development office in Lumberton. Ms. Hunt reviewed the Letter of Conditions and stated the following. Ms. Hunt noted this was not the approval of the loan and grant.

- \$2 million dollar project
- Application for a loan not to exceed \$497,000
- Grant of \$1,453,000 which equates to 70% of the project
- \$50,000 contribution from Cumberland County
- Interest rate on the loan is 2.38%; monies set aside at that rate or lower rate if available at closing
- 40-year term loan; first two payments interest only with remaining thirty-eight payments being principle and interest with the first payment being due June 1 following closing of the loan
- Security for the loan will consist of a \$497,000 Sewer Revenue Bond
- Debt service set aside to provide for at least one average annual loan payment in an amount equal to at least one-tenth of the average annual loan payment
- Interim construction financing will be through the sale of Bond Anticipation Notes with assistance from the LGC
- Disbursement of funds for the project: \$50,000 from the county being the first funds expended; Rural Development loan funds of \$497,000 the next funds expended and Rural Development grant fund of \$1,453,000 the last project funds expended.
- The district must adopt a mandatory connection requirement ordinance and copy of said ordinance submitted to the Agency for review.
- Final plans and specifications must conform to the scope of the project in accordance with the preliminary engineering agreement and said plans and specifications must be submitted to the Agency for review and approval.
- Full time inspector is required once the project is under construction and Agency requires prior agency concurrence with all change orders, invoices and payment estimates.
- Funds must be expended per the scope of the project and any remaining grant funds will be de-obligated and refunded to Rural Development.

There being no questions,

MOTION: Commissioner Council moved to approve the Bragg Estates Water and Sewer District consent agenda Items 1.A. – 1.B.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (6-0)

There being no further matters of business,

MOTION: Commissioner Evans moved to adjourn the meeting of the Bragg Estates Water and Sewer District Governing Board and reconvene the meeting of the Cumberland County Board of Commissioners.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (6-0)

Vice Chairman Faircloth called the meeting of the Board of Commissioners to order.

2. Consent Agenda

A. Approval of minutes for the December 1, 2014 regular meeting

B. Approval of Destruction of Department Records for the following:

1) County Administration

BACKGROUND:

In accordance with the County Management Records Retention and Disposition Schedule issued by the North Carolina Division of Archives and History and adopted by the Board of Commissioners at its May 6, 2013 meeting, authorization is requested to destroy County Administration records as recorded below.

Per Standard 1- 2011 County Administration Correspondence and Memoranda– Item #18:

RECOMMENDATION/PROPOSED ACTION:

Approve destruction of the record series as noted above.

- 2) Governing Body

BACKGROUND:

In accordance with the County Management Records Retention and Disposition Schedule issued by the North Carolina Department of Cultural Resources, Division of Archives and Records, State Archives of North Carolina, Government Records Section on April 13, 2013 and pursuant to the Board of Commissioners adoption of the County Management Records Retention and Disposition Schedule at its May 6, 2013 meeting, authorization is requested to destroy Governing Body Department records as recorded below.

COMMISSIONERS’ AGENDA AND MEETING PACKETS RECORD SERIES – 2010

Per Standard 1-Administration and Management Records – Item #2:

Destroy in office when administrative value ends.

CORRESPONDENCE AND MEMORANDA RECORD SERIES - 2010

Per Standard 1-Administration and Management Records – Item #18:

Destroy in office when administrative value ends. Destroy in office remaining records after 3 years.

RECOMMENDATION/PROPOSED ACTION:

Approve destruction of the record series as noted above and instruct the Clerk to the Board to include the same in the minutes of the December 15, 2014 Board of Commissioners’ meeting.

- C. Approval of Delinquent Health Department Accounts to be Written Off and Turned Over to the N.C. Debt Set-Off Program

BACKGROUND:

At the Board of Health meeting on November 18, 2014, the Board approved writing off a total of \$16,651.98 as bad debts. The bad debt accounts with balances of \$50.00 or higher will be processed through the North Carolina Debt Set-Off Program, which can attach a debtor’s State Income Tax refund for payment of bad debts. The accounts with balances under \$50.00 will continue to be worked for collection through the Health Department’s in-house collection efforts. This write-off of bad debts is in compliance with the Board of Health’s recommendation to write-off bad debts every quarter.

RECOMMENDATION/PROPOSED ACTION:

Approve write off of \$16,651.98 bad debts to the North Carolina Debt Set-Off Program.

**CUMBERLAND COUNTY DEPARTMENT
OF PUBLIC HEALTH
DELINQUENT ACCOUNTS TO BE TURNED OVER FOR COLLECTION
BAD DEBT WRITE OFF #41
November 18, 2014**

PROGRAM	AMOUNT
ADULT HEALTH	\$8,959.68

BCCCP	\$74.24
CHILD HEALTH	\$2,262.60
DENTAL	\$930.78
EXPRESS CARE	\$1,038.59
FAMILY PLANNING	\$660.41
MATERNITY	\$2,725.68
TOTAL	\$16,651.98

All bad debt accounts with balances of \$50.00 or higher, will be sent to the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax Refund for payment of bad debts.

The above accounts are 90 days old or older as of 9/30/2014

- D. Approval of Demolition of County-Owned Property Located at 4900 Panda Street, Hope Mills, NC - PIN #: 0413-45-4990 – Case No. BI-2014-001

BACKGROUND:

The above referenced property is currently owned by the County of Cumberland and has been inspected by code enforcement staff and determined to be uninhabitable. A concerted effort by this department to address similar issues in this area has precipitated this action in order that enforcement is fair and equitable in our clean-up efforts. This action would ensure and protect the health, safety and welfare of the citizens of Cumberland County.

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

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

BACKGROUND: That the following is a report on case number BI-2014-001

Property Owner: Cumberland County
 Property Address: 4900 Panda Street, Hope Mills, NC (single wide manufactured home and accessory structure)
 Tax Parcel Identification Number: 0413-45-4990

SYNOPSIS: This property was inspected on June 30, 2014. The structures are presently vacant and unsecure. In their present state, these structures constitute a fire, health, and safety hazard. The estimated cost to repair these structures to a minimum standard for human habitation is \$51,450. The Assessor for Cumberland County has these structures presently valued at \$500.00 for salvageable materials. Attached is a map depicting the location of the property.

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

- E. Consideration of Declaration of Surplus County Property and Authorization to Accept Insurance Settlement

BACKGROUND:

DATE OF ACCIDENT: October 15, 2014
VEHICLE: 2008 Ford Crown Victoria
VIN: 2FAHP71V78X145041
FLEET#: FL200
DEPARTMENT: Sheriff's Office
SETTLEMENT OFFER: \$5,919.70 (\$5,733.52 + \$186.18 for decals)
INSURANCE COMPANY: Travelers Property Casualty Company

This is a total loss settlement offer.

RECOMMENDATION/PROPOSED ACTION:

Management recommends that the Board of Commissioners:

1. declares the vehicle described above as surplus
 2. authorizes the Risk Management Coordinator to accept \$5,919.70 as settlement
 3. allows Travelers Property Casualty Company to take possession of the wrecked (surplus) vehicle
- F. Approval of Bid Award to Internetwork Engineering for the Telephone Infrastructure Project for the Department of Social Services

BACKGROUND:

Request for proposals for Networking Equipment for phone system infrastructure at the Department of Social Services were received by Purchasing on December 4, 2014. Four complete proposals were received with Internetwork Engineering being the lowest.

RECOMMENATION/PROPOSES ACTIONS

Information Services has reviewed the proposal and agree the proposal meets all specifications. It is my recommendation to put this item on the agenda for approval at the December 15, 2014 meeting.

- G. Approval of Ordinance Assessing Property for the Cost of Demolition:

- 1) Case Number: MH 431-2013
Property Owner: Henry & Rena M. McMillian
Property Location: 3397 & 3417 Departure Lane, Eastover, NC
Parcel Identification Number: 0469-73-6015

**ORDINANCE ASSESSING PROPERTY FOR THE COSTS
OF DEMOLITION OF A STRUCTURE PURSUANT TO
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY
CASE NUMBER: MH 431-2013
PROPERTY OWNER: Henry & Rena M. McMillian**

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on March 17, 2014, enacted an ordinance directing the demolition by the owner of the structure Henry & Rena M. McMillian, located at 3397 & 3417 Departure Lane, Eastover, NC, PIN: 0469-73-6015, said ordinance being recorded in Book 9399, page 0885, of the Cumberland County Registry of Deeds;

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

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

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

- (1) Said work had been accomplished.
- (2) The cost of such work was \$4,600.00.
- (3) There were no salable materials resulting from said work.

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

(1) That the real property on which the work was performed be, and it hereby is, assessed in the amount of \$4,600.00, said sum being the unpaid balance of the cost of the work set forth in the Inspector's Report;

(2) That as provided in the Ordinance of Cumberland County dated March 17, 2014, and in Section 153A-372 of the General Statutes of North Carolina, the amount of the foregoing assessment be, and hereby does constitute, a lien against the real property upon which such costs were incurred, such property being more particularly described as follows:

The structure and premises located at 3397 & 3417 Departure Lane, Eastover, NC, as described in Deed Book 883, page 555, of the Cumberland County Registry and identified in County tax records as PIN 0469-73-6015.

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

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

H. Approval of Cumberland County Facilities Committee Report and Recommendation(s):

- 1) Request to Install LED Sign for Public Health Center

BACKGROUND:

On December 4, 2014, the Facilities Committee approved a request from Public Health Director Buck Wilson to install an LED sign at the Public Health Center. State funding is available to fund the purchase and installation of the sign, with no required County match for the cost of the sign. The proposed location of the sign is on the Ramsey Street side of the building near Peace Street.

RECOMMENDATION/PROPOSED ACTION:

Approve the Facilities Committee recommendation to authorize the installation of an LED sign at the Public Health Center located at 1235 Ramsey Street, along with the associated budget revision, (B15-171).

- 2) Lease Renewal for North Carolina Department of Agriculture and Consumer Services for Office Space Located in the Charlie Rose Ag-Expo Center

BACKGROUND:

The North Carolina Department of Agriculture (NCDA) and Consumer Services currently leases 368 square feet of office space located within the Charlie Rose Ag-Expo Center from Cumberland County at a rate of \$12/SF. This existing lease is a three year lease which is set to expire on December 31, 2014.

County staff reached out to representatives from NCDA to see if they were interested in renewing the lease. County staff was later notified that NCDA was indeed interested in continuing to lease the space that they are currently occupying. NCDA representatives were then informed that their present lease rate of \$12/SF was no longer in line with the County's current lease rate, as two leases had been renewed earlier in the year with a lease rate of \$15/SF where the County provides janitorial services and utilities. NCDA representatives communicated back to County staff that they were in agreement with the increased lease rate and to move forward with renewing the lease for a three year period. No other changes to the lease other than the lease rate are being recommended at this time.

This was presented and approved by the Facilities Committee on December 4th.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management and the Facilities Committee recommend that the Board of Commissioners vote to approve a lease renewal with the NCDA and Consumer Services with a lease rate of \$15/SF for a period of three years following the approval of the County Attorney.

3) Land Purchases for Overhills Sewer

BACKGROUND:

On April 14, 2014 in a special called meeting, the Overhills Park Water and Sewer District governing board approved the letter of conditions presented by USDA Rural Development for a loan and grant in the amount of \$3,322,000 for the construction of a much needed sewer system within the Overhills Park Subdivision. In order to construct the sewer system as designed, the County must purchase two vacant lots that are currently owned by W.S. Wellons Corporation of Spring Lake. One lot is located at 3004 Collingwood Street and the other lot is located at 2410 Brinkley Drive.

County staff reached out to Mr. Billy Wellons several months ago about the need to purchase the two vacant lots for the construction of the sewer project. After several conversations, it was determined that an appraisal needed to be completed for each of the lots. Therefore, the County obtained the services of Roger Holmes to complete the requested appraisals. These appraisal reports have been attached for your review. Mr. Holmes concluded that each lot currently has a value of \$2,500. Mr. Wellons was provided the appraisals with an offer to purchase each lot at the appraised value. After reviewing the appraisals Mr. Wellons felt that the value assigned to each lot was too low and that he in turn wanted to provide an in depth review on his own. After a few weeks, Mr. Wellons contacted County Staff and offered to sell the lot on Collingwood Street for \$4,000 and offered to sell the lot on Brinkley Drive for a price of \$5,000 as is or for \$4,000 if he removed the trees prior to selling the lot.

The acquisition of these lots is critical for the construction of the proposed sewer project. The lot on Collingwood Street is needed for a lift station that will pump the collected wastewater on the north side of Manchester Road back to the south side into a proposed gravity line. The gravity sewer system on the south side of Manchester Road will cross the lot on Brinkley Drive to a dedicated easement owned by the Town of Spring Lake where the second lift station will be constructed. The cost of trying to redesign the system will far outweigh the additional cost above the appraised value of the lots. Not to mention, land still will need to be acquired and the majority of the vacant lots within the subdivision are owned by W.S. Wellons Corporation. USDA Rural Development has established milestone dates for the County to meet in order to still qualify for the loan and grant money that has been offered. The Board has the power of eminent domain; however the time necessary to complete this process could jeopardize the funding that has been allocated for the project. Again, the cost of this process would exceed the additional cost above the appraised value.

As previously stated, the lot on Brinkley Drive will be utilized to access the dedicated easement where the lift station is to be constructed. If the option were selected to purchase the lot for \$4,000, then the County would most likely have to spend additional money during construction to reestablish some sort of vegetation on the lot. So with that said, it would be more beneficial for the County to purchase this lot for the asking price of \$5,000 and utilize the existing trees as a buffer between the adjacent lots.

This was presented to the Facilities Committee on December 4th.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management and the Facilities Committee recommend that the governing board for the Overhills Park Water and Sewer District approve the purchase of the lot on Collingwood Street for the asking price of \$4,000 and to approve the purchase of the lot on Brinkley Drive for the asking price of \$5,000.

(See Overhills Park Water and Sewer District December 15, 2014 minutes for action taken by the Overhills Park Water and Sewer District governing board.)

I. Approval of Grant of Franchise Agreement for Operation of Courthouse and DSS Snack Bars (2nd Reading)

BACKGROUND:

Shana B. Yi and Jae Yong Yi (Lee) have been operating the snack bar in the Courthouse since 2003 and at DSS since 2008 under a franchise granted by the Board of Commissioners. The franchise expired September 30, 2014, but has a continuation provision subject to the approval of the Board. Finance Office reports that the franchisee is current on all financial obligations under the franchise and the franchise fees received by the county for the combined Courthouse and DSS snack bars for the past two fiscal years and the first two months of the current fiscal year have exceeded the minimum required payments by an average of \$50.37 per month.

The Board of Commissioners approved the 1st reading of this franchise agreement on November 17, 2014.

RECOMMENDATION/PROPOSED ACTION:

Approve the 2nd reading of the Courthouse and DSS Snack franchise agreement.

NORTH CAROLINA

COUNTY OF CUMBERLAND

SNACK BAR FRANCHISE AGREEMENT

First Reading November 17, 2014

Second Reading December 15, 2014

THIS AGREEMENT, made and entered into October _____, 2014, by and between SHANA B. YI and JAE YONG YI (LEE), d/b/a Go ‘N Joy Restaurant, located at 412½-A North Bragg Boulevard, Spring Lake, North Carolina 28390, hereinafter referred to as "FRANCHISEE", and the COUNTY OF CUMBERLAND, a body politic and corporate of North Carolina, hereinafter referred to as "COUNTY".

W I T N E S S E T H:

WHEREAS, the COUNTY is desirous of continuing the grant of a franchise to a food services vendor for the purpose of operating a Snack Bar to provide food services to the visitors and staff of the Cumberland County Courthouse located at 117 Dick Street, Fayetteville, North Carolina 28301 (Courthouse Snack Bar) and the Cumberland County Department of Social Services (DSS) located at 1225 Ramsey Street, Fayetteville, North Carolina 28301(DSS Snack Bar); and

WHEREAS, the COUNTY, through its Board of Commissioners, approved the grant of a franchise for the operation of these two snack bars to the FRANCHISEE upon a second reading at the regular meeting of the Board of Commissioners held November 7, 2011; and

WHEREAS, FRANCHISEE is a food services vendor and has operated the DSS Snack Bar as a franchisee of the County under a franchise agreement dated September 23, 2008, and the Courthouse Snack Bar as a franchisee of the County under a franchise agreement dated September 29, 2003 ; and

WHEREAS, FRANCHISEE desires to renew the franchises on the same terms in order to continue to provide the food services at the DSS Snack Bar and the Courthouse Snack Bar; and

WHEREAS, the Board of Commissioners of Cumberland County, North Carolina, finds that FRANCHISEE has fully performed all its obligations under the franchise agreements and each renewal thereof: and

WHEREAS, the Board of Commissioners desires to renew the described franchises on the same terms and to fully re-state those terms in this franchise agreement.

NOW, THEREFORE, for and in consideration of the promises and agreements hereafter set forth and the mutual benefits to be derived by the parties, the FRANCHISEE and the COUNTY promise and agree as follows:

1. TERM: The FRANCHISEE shall utilize the spaces occupied by the Courthouse Snack Bar and the DSS Snack Bar for the continued operation of those Snack Bars from October 1, 2014 through September 30, 2015. ,

2. AGENCY AND AUTHORITY: The COUNTY hereby designates Deputy County Manager James Lawson as its agent with respect to this Agreement. The Deputy County Manager is authorized, on behalf of the COUNTY, to negotiate directly with the FRANCHISEE on all matters pertaining to this Agreement. The FRANCHISEE agrees that all of its dealings with the COUNTY in respect to the terms and conditions of this Agreement shall be with the Deputy County Manager. Further, the FRANCHISEE specifically agrees that it shall not implement any requested modifications in the specifications of any of the services subject to this Agreement except in the manner described in the paragraph entitled MODIFICATION.

3. SERVICES:

- a. During the term of this Agreement, COUNTY agrees that the FRANCHISEE shall be authorized to operate a Snack Bar for the purpose of providing food services at the Cumberland County Courthouse, 117 Dick Street, Fayetteville, North Carolina 28301 and at the DSS Building, 1225 Ramsey Street, Fayetteville, North Carolina 28301 (the Snack Bars). The FRANCHISEE has provided, at FRANCHISEE'S own expense, all the construction and equipment necessary to operate these snack bars and FRANCHISEE'S construction and equipment have been approved by the COUNTY. No external signage shall be allowed.
- b. Food and drink items which are sold at the Snack Bars shall be palatable and of high quality. Prices charged for food and drink shall be no higher than that charged for similar merchandise in other similarly situated local places of business. Said prices are subject to reasonable, periodic adjustments by the FRANCHISEE in order to maintain reasonable profit margins in the operation of the Snack Bars.
- c. The hours of operation for the FRANCHISEE to provide food services at the Snack Bars shall be weekdays from 7:30 a.m. until 3:00 p.m., closed Saturdays and Sundays, and COUNTY recognized holidays.
- d. The FRANCHISEE shall employ adequate personnel to provide the needed food services and render prompt, courteous service. The FRANCHISEE will keep the kitchen facilities and equipment clean and orderly.
- e. Trash disposal services, convenient to the Snack Bars, shall be provided by the COUNTY.
- f. The FRANCHISEE shall operate the Snack Bars as an independent business enterprise, and shall hire and pay the wages and compensation of all its employees and agents. The FRANCHISEE shall be responsible for the conduct of its employees and agents.
- g. The FRANCHISEE shall not use or occupy, nor permit the Snack Bars or any part thereof, to be used or occupied for any unlawful business use or purpose deemed disreputable or extra hazardous or which will constitute a public or private nuisance or which is in any way detrimental, harmful, or prejudicial to the COUNTY, or is in violation of any laws, regulations, ordinances or codes, present or future.
- h. If the COUNTY deems the performance of the FRANCHISEE and the operation of the Snack Bars as unsatisfactory for any reason, COUNTY will notify the FRANCHISEE in writing, providing details of said unsatisfactory performance. FRANCHISEE shall have thirty (30) days to eliminate any deficiencies. Failure to eliminate the deficiencies shall result in termination pursuant to paragraph 12.
- i. In its operation of the Snack Bars, FRANCHISEE shall maintain a Grade "A" Health Inspection Rating issued by the North Carolina Department of Health and Human

FRANCHISEE shall not be liable for injury or damage to persons or property except those resulting from the acts or negligence of FRANCHISEE or its employees. Neither FRANCHISEE nor the COUNTY shall be held responsible or liable for any loss or damage due to fire, flood, or by insurrection or riot, or other causes which are not avoidable or beyond the control of FRANCHISEE or the COUNTY, or in any event for consequential damages.

7. NOTICES: Unless otherwise specified herein, any written notices to the parties shall be sufficient if sent by certified mail, return receipt requested, or hand-delivered to:

For FRANCHISEE:
Shana B. Yi
304 Wagoner Drive
Fayetteville, NC 28303
(910) 487-6919

FOR COUNTY:
James Lawson
Deputy County Manager
PO Box 1829
Fayetteville, NC 28302
(910) 678-7726

8. ASSIGNMENT: The FRANCHISEE shall not assign its contract rights under this Agreement or any part thereof, nor delegate any performance hereunder, nor subcontract without first obtaining the COUNTY'S written approval.

9. TERMINATION: This Agreement may be terminated immediately by the COUNTY or the COUNTY may pursue any other remedy recognized in law or equity upon the violation of any of the terms of the contract. Either party may terminate the contract upon thirty (30) days' notice in writing to the other party. Upon the entering of a judgment of bankruptcy or insolvency by or against the FRANCHISEE, the COUNTY may immediately terminate this Agreement for cause. Upon termination or expiration of this Agreement, FRANCHISEE will immediately remove all equipment, food products, etc., owned by FRANCHISEE from the Snack Bars or any other areas at either Courthouse or the DSS facility controlled by FRANCHISEE.

10. MISCELLANEOUS:

- a. The parties hereto, for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, handicap, or national origin in the course of fulfilling any obligation, duty, or service that arises as a result of this Agreement. More specifically, FRANCHISEE shall comply with Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (ADA), and all requirements imposed by Federal regulations, rules, and guidelines issues pursuant to these Titles for both personnel employed and customers served.
- b. The FRANCHISEE will make no alterations or changes in the present facilities without prior approval of the COUNTY.

11. MODIFICATIONS: This Franchise Agreement may be modified only by an instrument duly executed by the parties or their respective successors.

IN WITNESS WHEREOF, the FRANCHISEE and the COUNTY have caused their duly authorized officers to execute this instrument the day and year first above written, in triplicate originals, with one being retained by the FRANCHISEE, and two by the COUNTY.

J. Approval of Resolution for Designation of Applicant's Agent for Pre-Disaster Mitigation Program Grant (Project Approval: PDMC-PL-04-NC-2014-002)

BACKGROUND:

Cumberland County Emergency Services received notice from North Carolina Department of Public Safety, Division of Emergency Management that the U. S. Department of Homeland Security, FEMA Region IV, that the Pre-Disaster Mitigation Grant Application: 2014 – Cumberland and Hoke Counties Regional Hazard Mitigation Plan has been approved through the PDM grant program pursuant to the Congressional appropriations for Fiscal Year 2014. The Project Approval number for this grant is PDMC-PL-04-NC-2014-002).

A resolution must be approved by the Cumberland County Board of Commissioners specifically designating the Applicant's Agent who are authorized to execute and file applications for federal and/or state assistance on behalf of the Cumberland County Emergency Services for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

RECOMMENDATION/PROPOSED ACTION:

Approve the resolution (Designation of Applicant's Agent) and direct staff to process the paperwork for proper submission.

BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents (County Manager Amy H. Cannon and Emergency Services Director Randy Beeman respectively) are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available.

BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances incorporated herein by reference.

BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally.

Passed and approved this 15th day of December 2014.

K. Budget Revisions:

(1) Library Grants

Revision in the amount of \$(3,248) due to reduction in State Aid for FY2015. (B15-169) Funding Source – State

MOTION: Commissioner Council moved to approve consent agenda Items 2.A. – 2.K.(1)
SECOND: Commissioner Adams
VOTE: UNANIMOUS (6-0)

3. Public Hearings

Ms. Cannon explained the Board of Commissioners' procedures for public hearings.

Uncontested Modification Of Conditional Zoning

Tom Lloyd, Planning and Inspections Director, stated there was no opposition to Case P02-04, Case P14-58 or Case P14-59; there were no speakers signed up for the public hearings in Case P02-04, Case P14-58 or Case P14-59; and the Planning Board unanimously voted to approve Case P02-04, Case P14-58 and Case P14-59.

A. Case P02-04: Modification of certain zoning districts within an existing Mixed Use Development approved as a Conditional Use Overlay (2001) by rearranging 25.91+/- acres of the district boundaries as follows: 12.67+/- acres of O&I(P) Planned Office and Institutional/CU Conditional Use to C(P) Planned Commercial/CU Conditional Use consisting of two areas (8.21 +/- acres and 4.46+/- acres); and 13.24+/- acres of C(P) Planned Commercial/CU Conditional Use to O&I(P) Planned Office and Institutional/CU Conditional Use or to more restrictive zoning districts; located on the east side of SR 2252 (Chicken Foot Road), south of SR 2238 (Sand Hill Road); submitted by Thomas R. Prewitt on

behalf of Prewitt Land Company LLC (owner) and Moorman, Kizer and Reitzel, Inc.

Staff Recommendation:

1st motion for Case P2-04: Move to find the modification request for Case No. P02-04 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for “urban” at this location because the districts in the modification request will be oriented towards the residents in the overall development. The request is also consistent with the Draft South Central Detailed Land Use Plan, which calls for “mixed use” at this location, and for the reasons stated in the recommendations of the Planning Staff and as reflected in the minutes of the Planning Board’s consideration of this case, which minutes are to be fully incorporated herein by reference.

2nd motion for case P2-04: Move to find the modification request for Case P02-04 is reasonable as it is an existing approved mixed use that would not change any of the residential, non-residential percentage requirements, as recommended by the Planning Staff and as reflected in the minutes of the Planning Board’s consideration of this case, which minutes are to be fully incorporated herein by reference.

Planning Board Recommendation: Approve Staff Recommendation.

Uncontested Rezoning Cases

- B. Case P14-58: Rezoning of 65.13+/- acres from A1 Agricultural to R30 Residential/DD Density Development/ CZ Conditional Zoning district for a 66 lot residential subdivision or to a more restrictive zoning district; located on the southwest side of SR 2243 (Roslin Farm Road), north of Running Fox Road; submitted by Charles T. and Janet K. Gardner (owners).

Staff Recommendation:

1st motion for Case P14-58: Move to find the request for rezoning consistent with the 2030 Growth Vision Plan, and any other applicable land use plan, reasonable and in the public interest for the reasons stated in the recommendations of the Planning Staff and as reflected in the minutes of the Planning Board’s consideration of this case, which minutes are to be fully incorporated herein by reference.

2nd motion for Case P14-58: Move to approve the rezoning from RR Rural Residential to R30/DD Density Development/ CZ Conditional Zoning as recommended by the Planning Staff and as reflected in the minutes of the Planning Board’s consideration of this case, which minutes are to be fully incorporated herein by reference.

Planning Board Recommendation: Approve the Staff Recommendation.

- C. Case P14-59: Rezoning 1.30+/- acres from R10 Residential to RR Rural Residential or to a more restrictive zoning district; located at 2440, 2444 and 2450 Lillington Highway; submitted by Wilton C. Jones, Sr. (owner) and Gregory Spears.

Staff Recommendation:

1st motion for Case P14-59: Move to find the request for rezoning consistent with the 2030 Growth Vision Plan, and any other applicable land use plan, reasonable and in the public interest for the reasons stated in the recommendations of the Planning Staff and as reflected in the minutes of the Planning Board’s consideration of this case, which minutes are to be fully incorporated herein by reference.

2nd motion for Case P14-59: Move to approve the rezoning from R10 Residential to RR Rural Residential as recommended by the Planning Staff and as reflected in the minutes of the Planning Board's consideration of this case, which minutes are to be fully incorporated herein by reference.

Planning Board Recommendation: Approve the Staff Recommendation.

Vice Chairman Faircloth opened the public hearings for Case P02-04, Case P14-58 and Case P14-59.

The clerk to the board advised there were no speakers for Case P02-04, Case P14-58 and Case P14-59.

Vice Chairman Faircloth closed the public hearings for Case P02-04, Case P14-58 and Case P14-59.

MOTION: Commissioner Council moved to find that the modification request for Case No. P02-04 is consistent with the adopted comprehensive plan designated as the *2030 Growth Vision Plan*, which calls for "urban" at this location because the districts in the modification request will be oriented towards the residents in the overall development, and that the request is also consistent with the Draft South Central Detailed Land Use Plan, which calls for "mixed use" at this location, and for the reasons stated in the recommendations of the Planning Staff and as reflected in the minutes of the Planning Board's consideration of this case, which minutes are to be fully incorporated herein by reference.

SECOND: Commissioner Keefe
VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Council moved to find the modification request for Case P02-04 is reasonable as it is an existing approved mixed use that would not change any of the residential, non-residential percentage requirements, as recommended by the Planning Staff and as reflected in the minutes of the Planning Board's consideration of this case, which minutes are to be fully incorporated herein by reference.

SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Council moved in Case P14-58 and Case P14-59 to find the request for rezoning consistent with the *2030 Growth Vision Plan*, and any other applicable land use plan, reasonable and in the public interest for the reasons stated in the recommendations of the Planning Staff and as reflected in the minutes of the Planning Board's consideration of these cases, which minutes are to be fully incorporated herein by reference.

SECOND: Commissioner Keefe
VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Council moved in Case P14-58 to approve the rezoning from RR Rural Residential to R30/DD Density Development/ CZ Conditional Zoning and in Case P14-59 to approve the rezoning from R10 Residential to RR Rural Residential as recommended by the Planning Staff and as reflected in the minutes of the Planning Board's consideration of these cases, which minutes are to be fully incorporated herein by reference.

SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (6-0)

Minimum Housing Code Enforcement

D. REMOVED FROM AGENDA - Case Number: MH 645-2014

E. Case Number: MH 699-2014
Property Owner: Eric R. Nelson & Bank of America
Property Location: 6505 Amity Court, Stedman, NC
Parcel Identification Number: 0497-26-5834

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

I, Joan Fenley, 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 699-2014.

Property Owner: Eric R Nelson & Bank of America
Home Owner: Eric R Nelson & Bank of America
Property Address: 6505 Amity Court, Stedman, NC
Tax Parcel Identification Number: 0497-26-5834

SYNOPSIS: This property was inspected on 7/16/2014. The property owners and parties of interest were legally served with Notice of Violations and were afforded a Hearing on 9/15/2014. 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 10/15/2014. 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 12/4/2014, the required corrective action has not been made to the structure. The structure is presently vacant and reasonably secured. In its present state, this structure constitutes a fire, health, and safety hazard.

The estimated cost to repair the structure to a minimum standard for human habitation is \$75,411.00. The Assessor for Cumberland County has the structure presently valued at \$571.00.

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

The clerk to the board administered an oath to Joan Fenley, Inspector for the County of Cumberland Inspection Department. Ms. Fenley noted this case involves a doublewide mobile home. In response to questions posed by Commissioner Keefe, Ms. Fenley stated the Cumberland County Tax Assessor has the structure presently valued at \$571.00 and staff have not been able to make direct contact with the property owner or Bank of America even though both were legally served with all required notices. Ms. Fenley stated she did not know whether the septic tank was working and no utilities were on at this time.

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

Vice Chairman Faircloth opened the public hearing.

The clerk to the board advised there were no speakers.

Vice Chairman Faircloth closed the public hearing.

MOTION: Commissioner Keefe moved to adopt the order and report of the Minimum Housing Inspector as the true facts in this case; to order the property owner to remove or demolish the dwelling within 30 days; to order the Inspector

to remove or demolish the dwelling if the owner fails to do so and impose a lien on the real property for the cost of such action; and to direct the clerk to incorporate the foregoing findings and orders in an ordinance certified by the Chairman and record the same in the Register of Deeds.

SECOND: Commissioner Council
VOTE: UNANIMOUS (6-0)

Items of Business

4. Consideration of Designation of Voting Delegate to the NCACC's 2015 Legislative Goals Conference

BACKGROUND:

The NCACC's 2015 Legislative Goals Conference will be held January 15-16, 2015 at the Pinehurst Resort in Moore County. The Board of Commissioners is hereby requested to designate a commissioner or other official as a voting delegate. The voting delegate designation form is to be returned to the NCACC no later than Friday, January 2, 2015.

RECOMMENDATION/PROPOSED ACTION:

Appoint a voting delegate to the NCACC's 2015 Legislative Goals Conference.

MOTION: Commissioner Keefe moved to designate Commissioner Edge as the voting delegate to the NCACC's 2015 Legislative Goals Conference and to designate Commissioner Faircloth as the alternate voting delegate.

SECOND: Commissioner Adams
VOTE: UNANIMOUS (6-0)

5. Nominations to Boards and Committees

- A. Board of Health (1 Vacancy)

Commissioner Adams nominated Dr. Carl Creech.

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

Commissioner Council nominated Matthew Dempster.

- C. REMOVED FROM AGENDA - Fayetteville Area Convention and Visitors Bureau (2 Vacancies)

- D. Transportation Advisory Board (7 Vacancies)

Commissioner Council nominated Tom Lloyd, Ockidde Harris, Anne Morrison, Kenneth Washington, Joel Strickland, Alfred Foote and Deloma West.

- E. Cumberland County Workforce Development Board (1 Vacancy)

Commissioner Evans nominated Laura Hardy.

Commissioner Keefe nominated Brenda Jackson.

Commissioner Evans withdrew his nomination of Laura Hardy for the public sector position.

6. Appointments to Boards and Committees

- A. Farm Advisory Board (2 Vacancies)

Farmer Position: Britt Riddle (Reappointment)

Planning Board Representative: Patricia Hall

There being an equal number of vacancies and nominees,

MOTION: Commissioner Council moved to appoint Britt Riddle and Patricia Hall to the Farm Advisory Board.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Council moved to recess the Cumberland County Board of Commissioners' meeting and convene the meeting of the Norcross Water and Sewer District Governing Board.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

Vice Chairman Faircloth called the meeting of the Norcross Water and Sewer District Governing Board to order.

1. Consent Agenda

A. Approval of minutes for the April 22, 2014 regular meeting

B. Approval of the Utility Service Agreement for the NORCRESS Sanitary Sewer System

BACKGROUND:

The Falcon Children's Home has requested connection to the NORCRESS sanitary sewer system, by extension of the sanitary sewer main of approximately 1,000 LF, with all costs being paid by the Falcon Children's Home. The Utility Service Agreement is needed to set the guidelines between the Falcon Children's Home and NORCRESS, to ensure proper installation and connection to the system. Upon completion of construction of the sanitary sewer mains and written acceptance of the asbuilts and certifications the said utility mains shall be the property of NORCRESS and NORCRESS will operate and maintain them as part of the existing sanitary sewer system.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and Management recommend to the NORCRESS Governing Board to approve the Utility Service Agreement between the Falcon Children's Home and NORCRESS Water and Sewer District.

Jeffrey Brown, Engineering and Infrastructure Director, reviewed the background information as recorded above. Mr. Brown stated PWC handles permitting for the county and it has been jointly reviewed and agreed that this was the best way to get service to this new facility. Mr. Brown stated Board action is needed to access the line that has been installed to service the facility.

MOTION: Commissioner Lancaster moved to approve consent agenda items 1.A. – 1.B.

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

There being no further matters of business,

MOTION: Commissioner Lancaster moved to adjourn the meeting of the Norcross Water and Sewer District Governing Board and reconvene the meeting of the Cumberland County Board of Commissioners.

SECOND: Commissioner Council
VOTE: UNANIMOUS (6-0)

Vice Chairman Faircloth called the meeting of the Board of Commissioners to order.

MOTION: Commissioner Faircloth moved to recess the Cumberland County Board of Commissioners' meeting and convene the meeting of the Overhills Park Water and Sewer District Governing Board.

SECOND: Commissioner Council
VOTE: UNANIMOUS (6-0)

Vice Chairman Faircloth called the meeting of the Overhills Park Water and Sewer District Governing Board to order.

1. Consent Agenda

- A. Approval of minutes of August 4, 2014 special meeting
- B. Approval of Land Purchases for the Overhills Park Sewer Project

BACKGROUND:

On April 14, 2014 in a special called meeting, the Overhills Park Water and Sewer District governing board approved the letter of conditions presented by USDA Rural Development for a loan and grant in the amount of \$3,322,000 for the construction of a much needed sewer system within the Overhills Park Subdivision. In order to construct the sewer system as designed, the County must purchase two vacant lots that are currently owned by W.S. Wellons Corporation of Spring Lake. One lot is located at 3004 Collingwood Street and the other lot is located at 2410 Brinkley Drive.

County staff reached out to Mr. Billy Wellons several months ago about the need to purchase the two vacant lots for the construction of the sewer project. After several conversations, it was determined that an appraisal needed to be completed for each of the lots. Therefore, the County obtained the services of Roger Holmes to complete the requested appraisals. These appraisal reports have been attached for your review. Mr. Holmes concluded that each lot currently has a value of \$2,500. Mr. Wellons was provided the appraisals with an offer to purchase each lot at the appraised value. After reviewing the appraisals Mr. Wellons felt that the value assigned to each lot was too low and that he in turn wanted to provide an in depth review on his own. After a few weeks, Mr. Wellons contacted County Staff and offered to sell the lot on Collingwood Street for \$4,000 and offered to sell the lot on Brinkley Drive for a price of \$5,000 as is or for \$4,000 if he removed the trees prior to selling the lot.

The acquisition of these lots is critical for the construction of the proposed sewer project. The lot on Collingwood Street is needed for a lift station that will pump the collected wastewater on the north side of Manchester Road back to the south side into a proposed gravity line. The gravity sewer system on the south side of Manchester Road will cross the lot on Brinkley Drive to a dedicated easement owned by the Town of Spring Lake where the second lift station will be constructed. The cost of trying to redesign the system will far outweigh the additional cost above the appraised value of the lots. Not to mention, land still will need to be acquired and the majority of the vacant lots within the subdivision are owned by W.S. Wellons Corporation. USDA Rural Development has established milestone dates for the County to meet in order to still qualify for the loan and grant money that has been offered. The Board has the power of eminent domain; however the time necessary to complete this process could jeopardize the funding that has been allocated for the project. Again, the cost of this process would exceed the additional cost above the appraised value.

As previously stated, the lot on Brinkley Drive will be utilized to access the dedicated easement where the lift station is to be constructed. If the option were selected to purchase the lot for \$4,000, then the County would most likely have to spend additional

MOTION: Commissioner Council moved to go into closed session for Economic Development Matter(s) Pursuant to NCGS 143-318.11(a)(4) and Attorney/Client Matter(s) Pursuant to NCGS 143-318.11(a)(3).

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Lancaster moved to reconvene in open session.

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Evans moved to adjourn.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (6-0)

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

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board