

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 18, 2017 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Jeannette Council, Vice Chair
Commissioner Glenn Adams
Commissioner Michael Boose
Commissioner Charles Evans
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe
Amy Cannon, County Manager
Melissa Cardinali, Assistant County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Duane Holder, Assistant County Manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Deborah Shaw, Budget Analyst
Jeffrey Brown, Engineering and Infrastructure Director
Tom Lloyd, Planning and Inspections Director
Keith Todd, Information Services Director
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk
Press

ABSENT: Commissioner Larry Lancaster, Chairman

Vice Chair Council called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Evans provided the invocation followed by the Pledge of Allegiance to the American flag led by Michiah Stallings, student at Gallberry Farms Elementary School.

Introduction of Fayetteville-Cumberland Youth Council Member: Konstance Woods

Ms. Woods was unable to be present.

Recognition of 2017 Cumberland County Agricultural Hall of Fame Inductee - C. Wayne Collier, Jr.

On behalf of the Board, Vice Chair Council congratulated C. Wayne Collier, Jr. on his induction into the Cumberland County Agricultural Hall of Fame and called on Lisa Childers, Cooperative Extension Director, who provided the following bio for C. Wayne Collier, Jr.

Wayne Collier was selected as the 2017 Cumberland County Agricultural Hall of Fame inductee.

The son of C. Wayne Collier, former superintendent of Cumberland County Schools and Mary Iva Collier, who was also an educator, Wayne not only comes from a family of educators but also a family with a strong heritage in agriculture. Mr. Collier's 450- acre farm has been in the Collier family since 1877.

After graduating from NC State with a degree in Animal Science, Wayne worked for a commercial swine operation. He then went on to build and operate his own swine operation and farmed corn, tobacco, wheat, soybeans, raised Bermuda hay, wheat straw, custom hay, and managed timber and forestland on his family farm.

Wayne also worked for the US Postal Service as a mail carrier for 34 years.

Today, Wayne and his wife, Carolyn, manage their timberland and raise hay. He

also runs a small-scale watermelon operation, which has earned him the title of “Watermelon King of Northern Cumberland County.” Wayne can often be spotted in his iconic 1966 GMC pickup truck loaded with locally-grown watermelons.

Perhaps one of Wayne’s greatest impacts on agriculture is his strong support of youth. He is a major supporter of the Cumberland County Livestock Association, which provides youth the opportunity to participate in livestock shows and he works with the NC Forestry Service to host forestry judging competitions for FFA students. He is also an avid advocate of the Cumberland County Cooperative Extension 4-H Program, and through his Soil and Water Conservation work encourages environmental education for middle and high school students while also supporting and promoting youth Environthon teams.

Wayne was elected to the office of Cumberland County Soil and Water Conservation Supervisor in 2014, he is a past member of the Cumberland County Farm Advisory Board, and serves on the Cumberland County Farm Service Agency Committee. He is also a member of the Cumberland County Livestock Association, Cumberland County Farm Bureau, and the South River EMC Board of Directors.

As the owner and operator of Indian Ridge Farm in Cumberland County, Wayne’s strong dedication to agriculture can be seen through his life-long commitment to the agriculture community.

Recognition of 2017 Young Farmer of the Year - Zach Dail

On behalf of the Board, Vice Chair Council congratulated Zach Dail on being named the 2017 Young Farmer of the Year and called on Lisa Childers, Cooperative Extension Director, who provided the following bio for Zach Dail.

Zach is the son of James ("Rooster") and Wanda Dail. He is the brother of J. R. Dail, brother-in-law to Charlene "Charlie" Dail, and uncle to Bennett Harrison Dail who turns seven months old later this month. He is the grandson of the late James & Mavis Dail and the late Doris Strickland Autry. His grandfather, Bruce Autry, is a retired farmer and turns 92 years old this year.

Zach, a fifth-generation farmer, is a 2010 graduate of North Carolina State University's agricultural technology program. He farms with his father and brother, and his mother helps the family farm with payroll and bookkeeping. The family grows tobacco, cucumbers, soybeans, and wheat. Zach's great, great grandfather, William R. Taylor, helped bring flue-cured tobacco to Cumberland County. Taylor settled near U.S. 301 in the early 1900s and bought about 2,000 acres of land. Zach's father was named Outstanding Young Farmer in 1992, and his older brother, in 2016.

Zach is dedicated to supporting the farm operations and working hard every day. In his spare time, he enjoys fishing and spending time with his Lab, Levi. He also enjoys spending time with his brother, sister-in-law, nephew, and friends.

PUBLIC COMMENT PERIOD

Amy Cannon, County Manager, read the public comment policy. Vice Chair Council recognized the clerk to the board who called the following speakers:

Tom Clark - Mr. Clark spoke in opposition to the Atlantic Coast Pipeline and stated property owners within a certain radius of the pipeline were told the pipeline would not affect their property values. Mr. Clark shared information from various publications stating interest in properties along the proposed pipeline and land values near the proposed pipeline dropped or shrunk substantially. Mr. Clark also spoke briefly to the ecological and economic downsides to construction of the pipeline.

Chief District Court Judge Robert Stiehl - Judge Stiehl thanked the Board of Commissioners for working with the courts on their facility needs and

arrangements. Judge Stiehl spoke briefly to judicial initiatives: working in cooperation with the District Attorney, Sheriff's Office and others to move jail cases; undertaking changes to improve and bring efficiencies to the child welfare system; and electronic filing in domestic violence cases.

Hosea M. Ray – Mr. Ray spoke to GenX and other toxic chemicals affecting citizens in North Carolina and a \$7 million settlement in W. Virginia involving Chemours. Mr. Ray stated the Chemours contamination will not go away and it may be too late for the effect the contamination will have on families, children and many generations to come. Mr. Ray stated the radius of contamination in W. Virginia reached out 20 to 25 miles and downtown Fayetteville is within that radius. Mr. Ray stated Chemours doing the testing and supposedly working with NCDEQ is a classic case of the fox guarding the hen house. Mr. Ray stated counties need to take control and attack the air emissions and water contamination issues.

1. APPROVAL OF AGENDA

MOTION: Commissioner Evans moved to approve the agenda.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (6-0)

2. PRESENTATIONS

A. Report of NCACC Youth Summit by Dewain Greeme

Amy Cannon introduced Youth Representative Dewain Greene and called on Ms. Childers who stated the North Carolina Cooperative Extension is partnering with NCACC on this initiative to help increase youth involvement in county government. Ms. Childers stated Dewain Greene and several other delegates from across the state attended sessions at the summit to acquire a better understanding of services county governments provide. Ms. Childers stated Dewain is a tenth-grade student at Trinity Christian Academy.

B. Presentation of the Fiscal Year 2017 Annual Audit by April Adams, Partner, Cherry Bekaert, LLP and Vicki Evans, Finance Director

BACKGROUND:

Ms. April Adams, Partner, Cherry Bekaert, LLP and I will be making a presentation of the fiscal year 2017 annual audit results at the December 18, 2017 Board of Commissioners meeting.

RECOMMENDATION / PROPOSED ACTION:

Accept the audited Comprehensive Annual Financial Report for the fiscal year ended June 30, 2017.

Ms. Cannon introduced April Adams, engagement partner with Cherry Bekaert and called on Finance Director Vicki Evans who advised the Comprehensive Annual Financial Report is posted on the County's website. Ms. Adams explained generally accepted auditing standards require that the auditor provide an opinion on whether findings were presented fairly and the County received an unmodified or "clean opinion" which is highest level of assurance. Ms. Adams stated when performing an audit of a government agency, the audit is performed under another set of standards know as Governing Audit Standards. Ms. Adams stated these standards require auditors to issue a report on the compliance of internal controls over financial reporting. Ms. Adams stated the purpose of the CAFR is to provide the scope and result of that testing and not to provide an opinion on the internal controls over financial reporting or on compliance. Ms. Adams stated Cherry Bekaert believes the audit evidence obtained is sufficient and appropriate to provide a basis for the audit opinion. Ms. Adams stated a single audit was performed of the federal and state grant expenditures. Ms. Adams stated the auditor is required to express an opinion on whether the government complied with the laws, regulations and provision of contractor grant agreements that can have a direct and material effect on each major federal or state program. Ms. Adams stated these received unmodified or "clean opinions". Ms. Adams called attention to the letter to the

Board of Commissioners with information about the auditor's responsibilities under generally accepted auditing standards.

Ms. Evans presented a summary of the general fund with the original and final budget, actual balances and the variance between the final budget and actual revenue and expenditures. Ms. Evans stated general fund revenue and other financing sources exceeded expenditures and financing uses by \$9.95 million which means there was a gain. Ms. Evans stated this gain was applied to the beginning restated fund balance of \$114.1 million resulting in an ending fund balance of \$123.7 million. Ms. Evans provided highlights of the five categories of fund balance that make up the total fund balance of \$108.8 million not including the school fund. Ms. Evans stated the unassigned fund balance as a percentage represents 14.83% of FY17 expenditures. Ms. Evans stated a total of approximately \$30.6 million is assigned and approximately \$47 million is unassigned. Ms. Evans provided the FY17 actual revenue summary breakdowns by revenue category and stated ad valorem taxes represent over one-half the general fund revenue. Ms. Evans provided the FY17 actual expenditures fund balance and stated education has the highest representation followed by social services and public safety which make up over two-thirds of general fund expenditures.

Ms. Evans recognized financial staff involved in completing the audit and report. Ms. Evans thanked Cherry Bekeart and stated the request is acceptance of the FY17 audited CAFR.

Commissioner Keefe requested removal of Item 3.B. from the consent agenda for separate discussion and action.

3. CONSENT AGENDA

- A. Approval of Minutes of the December 4, 2017 Regular Board of Commissioners' Meeting
- B. Removed for separate discussion and action as recorded below.
- C. Approval of Payment of Prior Year Invoices for The Engineering & Infrastructure Department

BACKGROUND:

The Engineering & Infrastructure Department is requesting to pay Famous Footwear for invoice # 0223416 totaling \$96.29 for safety shoes for a Landscaping & Grounds employee. This invoice was not received until November 29, 2017, after the deadline to pay FY 2017 invoices. Staff has verified this invoice was not paid and is in fact due. Sufficient funds are available in the current year budget to cover this expenditure.

RECOMMENDATION / PROPOSED ACTION:

Management is requesting approval to pay invoice # 0223416 to Famous Footwear totaling \$96.29.

- D. Approval of Payment of Prior Year Invoice for the Employee Pharmacy

BACKGROUND:

The Employee Pharmacy is requesting to pay Cardinal Health three invoices # 6525699, 6525668, 6599827 and two credit memos # 80661-0, and 106935-0 totaling \$12,587.48. All invoices and credit memos were received after the deadline to pay FY 2017 invoices. Staff have verified that the invoices were not paid and are in fact due. Sufficient funds are available in the current year budget to cover these expenditures.

RECOMMENDATION / PROPOSED ACTION:

Management is requesting approval to pay the five prior year invoices for Cardinal Health totaling \$12,587.48.

- E. Approval of Payment of Prior Year Invoices for the Department of Public Health

BACKGROUND

The Department of Public Health is requesting to pay six prior year invoices for medical

services for jail inmates totaling \$12,261.26. All invoices were received after the deadline to pay FY 2017 invoices. Staff have verified that all invoices have not been paid and are in fact due. Sufficient funds are available in the current year budget to cover these expenditures.

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay the six prior year invoices for the Department of Public Health totaling \$12,261.26.

- F. Approval of Sale of Surplus Real Property Located at 1901 Newark Ave., Fayetteville

BACKGROUND

On October 16, 2017, the Board adopted a resolution of its intent to accept the offer of Ms. Sheryl Hussein to purchase the property with PIN 0428- 95-7010, located at 1901 Newark Avenue, Fayetteville, for \$3,827.71.

Notice of the proposed sale was advertised in the *Fayetteville Observer* on October 24, 2017, subject to the upset bid process required by G. S. § 160A-269. The publisher's affidavit was provided. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair to execute a deed for the property upon the County's receipt of the balance of the purchase price.

- G. Offer to Purchase Surplus Real Property Being Lot 216 Savoy Heights, located off Weiss Avenue, Plat Book 20 at Page 21

BACKGROUND:

The County and the City of Fayetteville acquired real property with the PIN 0437-11-0345 being Lot 216 Savoy Heights, located off Weiss Avenue, in the City of Fayetteville, Plat Book 20 at Page 21, together with five other parcels at a tax foreclosure sale in 2011 for a total purchase price of \$9,227.47. The prorated share of the purchase price for the parcel for which an offer has been made is \$922.75. Based on the GIS Mapping and the tax records, the parcel is vacant and zoned residential, with a tax value of \$10,000.00. The City conveyed its interest in the property to the County on July 12, 2012, by a Quitclaim Deed recorded in Book 8955 at Page 530. Mr. Michael Mathis has made an offer to purchase the property for \$1,000.00. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION:

The County Attorney recommends that the Board consider the offer of Michael Mathis and if the Board proposes to accept the offer, resolve that the described real property is not needed for governmental purposes and direct that it be advertised and sold pursuant to the upset bid process of G. S. § 160A-269.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS ADVERTISEMENT OF PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S § 160A-269

Take notice that the Board of Commissioners finds the following real properties not needed for governmental purposes and proposes to accept an offer to purchase the properties being Lot 216 Savoy Heights, located off Weiss Avenue, in the City of Fayetteville, Plat Book 20 at Page 21, PIN 0437-11-0345, for a purchase price of \$1,000.00. Within 10 days of this notice, any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

- H. Offer to Purchase Surplus Property Located at 2302 Edgar Street, Fayetteville

BACKGROUND:

The County and the City of Fayetteville acquired the real property with the PIN 0428-97-7506 located at 2302 Edgar Street, Fayetteville, NC, at a tax foreclosure sale in 2014 for a purchase price of \$8,690.68. The property is zoned SF6 with a tax value of \$86,364. The City conveyed its interest in the property to the County on May 1, 2017, by a quitclaim deed recorded in Book 10082 at page 657. Based on the GIS Mapping and the tax records, there is a structure on the lot. Mr. Leroy Johnson made an offer to purchase the property for \$8,690.68. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION:

The County Attorney recommends the Board consider the offer of Mr. Johnson. If the Board proposes to accept the offer, resolve that the described real property is not needed for governmental purposes and direct that it be advertised and sold pursuant to the upset bid process of G. S. § 160A- 269.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS ADVERTISEMENT OF PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S § 160A-269

Take notice that the Board of Commissioners finds the real property with PIN 0428-97-7506, being Lots 11-13, H. L. Dawson S/D, PB 14/39, located at 2302 Edgar Street, Fayetteville, NC, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$8,690.68. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

I. Request for Refund of Excise Tax

BACKGROUND:

Single Source Real Estate Services, Inc., has requested a refund of the county's one-half of the excise tax paid for recording a deed for the reason the amount of the Excise Tax was incorrect. The Register of Deeds has recommended that this refund in the amount of \$374 be granted. Single Source states that it recorded the deed in Book 10213 at page 0492 with the incorrect amount of Excise Tax stated on the face of the deed and recorded the deed again in the same book at page 813 with the correct amount stated. The request, the recommendation of the Register of Deeds, and copies of the two deeds are attached.

G.S. § 105-228.30 levies an excise tax on each instrument by which any interest in real property is conveyed to another person. Since a separate deed had already been recorded conveying the same property from the same grantor to the same grantee, no interest was conveyed by the second deed. The county attorney advises that this second recording was a sufficient basis to grant the request.

G.S. § 105-228.37 governs this refund process. The Board of Commissioners must conduct a hearing on the request after 10 days' notice to the taxpayer. This is not a public hearing. The County may only refund one-half of the total tax because the County only received one-half of the tax and the State received the other half. The refund will bear interest pursuant to the statute.

RECOMMENDATION / PROPOSED ACTION:

The county attorney recommends that the board set a hearing on this matter at its January 16, 2018, meeting and direct that notice of the hearing be given to the taxpayer in accordance with G.S. § 105-228.37.

J. Approval of Budget Ordinance Amendments for the December 18, 2017 Board of Commissioners' Agenda

BACKGROUND:

General Fund 101

1) Engineering - Budget Ordinance Amendment B180092 to move \$1,224,408 from the Soil Conservation Department to the Engineering Department to be used for debris clearing projects

The Board is requested to approve Budget Ordinance Amendment B180092 to move recognized grant funding from the North Carolina Department of Agriculture and Consumer Services – Division of Soil and Water Conservation. These funds were previously approved for the Soil Conservation Department at the November 6, 2017 Board of Commissioners meeting. This request is to move the funds to Engineering, as the project will be managed by the Engineering Department.

Please note this amendment requires no additional county funds.

2) Engineering - Budget Ordinance Amendment B180167 to recognize additional grant funds in the amount of \$200,000 from the North Carolina Golden Leaf Foundation to be used for debris clearing projects

The Board is requested to approve Budget Ordinance Amendment B180167 in the amount of \$200,000. These are additional funds received from the North Carolina Golden Leaf Foundation and will be used towards the County's stream debris removal project.

Please note this amendment requires no additional county funds.

3) Library Grants - Budget Ordinance Amendment B180269 to recognize grant funds in the amount of \$2,200 from the State Library of North Carolina – Library Services and Technology Act (LSTA) Public Library Association (PLA)

The Board is requested to approve Budget Ordinance Amendment B180269 to recognize grant funds in the amount of \$2,200 from the State Library of North Carolina – Library Services and Technology Act (LSTA) Public Library Association (PLA). These funds will be used towards continuing education expenses for staff to attend training.

Please note this amendment requires no additional county funds.

REGARDING ITEM 4 PLEASE NOTE:

Each fiscal year County departments may have projects that are not complete by the fiscal year end (6/30/17) or items ordered that have not been received by fiscal year end. These projects or items were approved in the Fiscal Year 2017 budget; however, the money was not spent by June 30, 2017.

The following amendments seek to bring those funds forward from FY 2017 into the current fiscal year, allowing departments to complete and pay for these items. These revisions are not using 'new' funds, but are recognizing the use of FY17 funds in FY18.

Community Development Fund 267

4) Community Development - Budget Ordinance Amendment B180975 to bring FY17 funds forward in the amount of \$70,214 towards services that will assist the homeless population

The Board is requested to approve Budget Ordinance Amendment B180975 to bring FY17 Community Development funds forward in the amount of \$70,214. These funds represent the County's initiative to reduce homelessness in the community. Funding will go towards services such as relocation expenses, transitional housing and utilities.

Contingency Funds Report – FY18

Contingency funds were not used.

RECOMMENDATION / PROPOSED ACTION:

Approve Budget Ordinance Amendments.

- K. Approval of Cumberland County Facilities Committee Report and Recommendation(s)
 - 1. Bid Award for Stream Debris Removal from Little Rockfish and Rockfish Creeks

BACKGROUND

Cumberland County was awarded a disaster recovery grant in August from the Golden Leaf Foundation in the amount of \$500,000 for storm debris removal from Little Rockfish and Rockfish Creeks. The County had requested over \$2.4 million with the grant submittal to address stream debris removal in numerous water bodies within the County.

A pre-bid meeting was held on October 27, 2017 and informal bids were received on November 6, 2017. Only one bid was received in the amount of \$1,087,125.00 which was submitted by ES&J Enterprises, Inc. of Autryville, NC (see attached bid proposal and bid tab). This is the same contractor that has performed stream debris removal for the City of Fayetteville and the Town of Hope Mills. Immediately after receiving the bid, Engineering & Infrastructure (E&I) Staff reached out to the Golden Leaf Foundation to see if there was additional grant money available to the County to complete the project. Golden Leaf staff informed E&I staff that they were seeing quite a bit of disaster recovery projects bid higher than what grant funding was allocated. The Golden Leaf Foundation Board is meeting on December 7th to allocate approximately \$15 million of remaining disaster relief funding and this project has been included for consideration.

E&I Staff met with ES&J Enterprises, Inc. on November 15th to explain that the County only had \$500,000 available for the project and that the County could not award the project in its entirety. After some discussion, ES&J stated that they would be willing to reduce their bid price to \$495,000 to clean Little Rockfish Creek and the first four segments of Rockfish Creek. The bid price submitted to clean Little Rockfish Creek and the first four segments of Rockfish Creek was \$532,762.50.

In late October, Cumberland County was also awarded \$1,219,408.00 in grant funding from the North Carolina Department of Agriculture and Consumer Services – Division of Soil & Water Conservation for stream debris removal in South River, Sandy Creek and Locks Creek. E&I Staff reached out to the Division of Soil & Water Conservation to ask if some of this funding could be used to complete Rockfish Creek if no additional grant funding is allocated by the Golden Leaf Foundation. E&I Staff was informed that this could be done. Therefore, if additional funding is not received from the Golden Leaf Foundation, E&I Staff's recommendation is to utilize funding from the Division of Soil & Water Conservation to complete the cleaning of Rockfish Creek since this was one of the most severely impacted areas from flooding within the entire County from Hurricane Matthew.

This was presented and approved by the Facilities Committee on December 7th. Cumberland County Staff received notification on the afternoon of December 7th that the County had been awarded an additional \$200,000 in disaster recovery grants for stream debris removal in Rockfish Creek.

RECOMMENDATION / PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management and the Facilities Committee recommend that the Board of Commissioners approve the following recommendations.

1. Accept the revised bid for stream debris removal in Little Rockfish Creek and a portion of Rockfish Creek and award a contract to ES&J Enterprises, Inc. in the amount of \$495,000.
2. Authorize County Staff to formally request that grant funding awarded by the Division of Soil & Water Conservation be utilized to complete the cleaning of Rockfish Creek if additional funding is not allocated to Cumberland County by the Golden Leaf Foundation.

3. Approve Budget Ordinance Amendment #B181191 in the amount of \$500,000 to recognize the Disaster Recovery Grant award from the Golden Leaf Foundation for stream debris removal within Little Rockfish Creek and portions of Rockfish Creek.
2. Condemnation & Quick-Take Powers of Easement for Overhills Park Water & Sewer District

BACKGROUND:

At the September 7, 2017 Facilities Committee, Engineering & Infrastructure (E&I) Staff made the Committee aware that a portion of the Overhills Park Sewer Project would have to be redesigned based on an existing 36-inch pressurized force main along E. Manchester Road and that seven (7) easements would have to be acquired to install the rerouted sewer line. This redesign was recently completed. The Legal Department has completed title reports for each of the properties and approved the easement documents that will be used to execute the easements.

E&I Staff have received verbal confirmation from all but one of the property owners that they will grant the Overhills Park Water & Sewer District the necessary easements to install the sewer line. The property owner in disagreement owns property located at 1435 E. Manchester Road which is in the middle of the properties where easements are being acquired (see attached map). E&I Staff has met with the property owner on multiple occasions to discuss obtaining the easement. It is important to point out that the property located at 1435 E. Manchester Road has a non-functional septic system and has been deemed uninhabitable by Environmental Health due to the failing septic system. Without this easement, the lots to the east of this parcel cannot be served with public sewer. In light of this situation, E&I Staff is requesting condemnation and quick-take powers of the needed easement to keep this project moving forward.

This matter was presented and approved by the Facilities Committee on December 7th.

RECOMMENDATION / PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management, the County Attorney and the Facilities Committee recommend that the Board of Commissioners approve the condemnation of the needed easements in case an agreement cannot be reached with any of the property owners.

3. Lease Agreement with the North Carolina Department of Agriculture - Plant Industry Division

BACKGROUND:

The North Carolina Department of Agriculture-Plant Industry Division currently leases approximately 368 +/- square feet of space at the Charlie Rose Ag-Expo Center from Cumberland County for operation of its Witchweed program. This space is leased at the rate of \$15 per square foot or \$5,520 per year payable in equal monthly installments of \$460 per month, over a two (2) year period. The proposed term of the lease is January 1, 2018 to December 31, 2020. All the terms in the proposed lease remain the same. The County provides all utilities and janitorial services, but does not provide telephone services. This space has been leased for this purpose at least as far back as 2012.

RECOMMENDATION / PROPOSED ACTION:

This item was approved by the Facilities Committee at its December 7, 2017 meeting and is being forwarded to the full Board of Commissioners for inclusion as a Consent Agenda item at their December 18, 2017 regular meeting.

THIS LEASE DOES NOT BECOME EFFECTIVE UNTIL EXECUTED BY THE
NORTH CAROLINA DEPARTMENT OF ADMINISTRATION

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of the last date set forth in the notary acknowledgements below by and between, C U M B E R L A N D C O U N T Y , a b o d y politic and corporate, hereinafter designated as Lessor, and the STATE OF NORTH CAROLINA, hereinafter designated as Lessee;

WITNESSETH:

THAT WHEREAS, authority to approve and execute this lease agreement was delegated to the Department of Administration by resolution adopted by the Governor and Council of State on the 1st day of September, 1981; and as amended on September 8, 1999 and December 7th, 1999, and

WHEREAS, the parties hereto have mutually agreed to the terms of this lease agreement as hereinafter set out.

NOW THEREFORE, in consideration of the rental hereinafter agreed to be paid and the terms and conditions hereinafter set forth, Lessor does hereby let and lease unto Lessee and Lessee hereby takes and leases from Lessor for and during the period of time and subject to the terms and conditions hereinafter set out certain space in the City of Fayetteville, County of Cumberland, North Carolina, more particularly described as follows:

Being approximately ±368 net square feet of office space being offices # 224, 226, and 227 in the Charlie Rose Ag-Expo Center, located in Fayetteville, Cumberland County, North Carolina and further described in "Exhibit A"

DEPARTMENT OF AGRICULTURE AND CONSUMER RESOURCES PLANT INDUSTRY DIVISION
THE TERMS AND CONDITIONS OF THIS LEASE AGREEMENT ARE AS FOLLOWS:

1. The term of this lease shall be for a period of three (3) years, commencing on the 1st day of January, 2018, or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the 31st day of December, 2020.

2. During the term of the lease, the Lessee shall pay to the Lessor as rental for said premises the sum of \$5,520.00 Dollars per annum, which sum shall be paid in equal monthly installments of \$460.00 Dollars. The Lessee agrees to pay the aforesaid rental to Lessor at the address specified, or, to such other address as the Lessor may designate by a notice in writing at least fifteen (15) days prior to the due date.

3. Lessor agrees to furnish to the Lessee, as a part of the consideration for this lease, the following services and utilities to the satisfaction of the Lessee.

A. Heating facilities, air conditioning facilities, adequate electrical facilities, adequate lighting fixtures and sockets, hot and coldwater facilities, and adequate toilet facilities.

B. Lessor to provide required fire extinguishers and servicing, pest control, and outside trash disposal. Maintenance of lawns, parking areas (including snow removal) and common areas are required.

C. Parking

D. The Lessor covenants that the leased premises are generally accessible to persons with disabilities. This shall include access into the premises from the parking areas (where applicable), into the premises via any common areas of the building and access to an accessible restroom.

E. All stormwater fees.

F. Any fire or safety inspection fees.

G. Daily janitorial service and supplies.

H. All utilities, except telephone.

I. All land transfer tax/fees imposed by the County or City in which the space is located.

J. The number of keys to be provided to Lessee for each lockset shall be reasonably determined by Lessee prior to occupancy and said keys shall be furnished by Lessor to Lessee at no cost to Lessee.

K. All other terms and conditions of the signed "Proposal to Lease to the State of North Carolina" Form P0-28 and "Specifications for Non-advertised Lease."

4. During the lease term, the Lessor shall keep the leased premises in good repair and tenantable condition, to the end that all facilities are kept in an operative condition. Maintenance shall include, but is not limited to furnishing and replacing electrical light fixture ballasts, air conditioning and ventilating equipment filter pads, if applicable, and broken glass. In case Lessor shall, after notice in writing from the Lessee in regard to a specified condition, fail, refuse, or neglect to correct said condition, or in the event of an emergency constituting a hazard to the health or safety of the Lessee's employees, property, or invitees, it shall then be lawful for the Lessee in addition to any other remedy the Lessee may have, to make such repair at its own cost and to deduct the amount thereof from the rent that may then be or thereafter become due hereunder. The Lessor reserves the right to enter and inspect the leased premises, at reasonable times, and to make necessary repairs to the premises.

5. It is understood and agreed that Lessor shall, at the beginning of said lease term as hereinabove set forth, have the leased premises in a condition satisfactory to Lessee, including repairs, painting, partitioning, remodeling, plumbing and electrical wiring suitable for the purposes for which the leased premises will be used by Lessee.

6. The Lessee shall have the right during the existence of this lease, with the Lessor's prior consent, to make alterations, attach fixtures and equipment, and erect additions, structures or signs in or upon the leased premises. Such fixtures, additions, structures or signs so placed in or upon or attached to the leased premises under this lease or any prior lease of which this lease is an extension or renewal shall be and

remain the property of the Lessee and may be removed therefrom by the Lessee prior to the termination of this lease or any renewal or extension thereof, or within a reasonable time thereafter. The Lessee shall have no duty to remove any improvement or fixture placed by it on the premises or to restore any portion of the premises altered by it. In the event Lessee elects to remove his improvements or fixtures and such removal causes damage or injury to the demised premises, Lessee will repair only to the extent of any such damage or injury.

7. If the said premises be destroyed by fire or other casualty without fault of the Lessee, this lease shall immediately terminate and the rent shall be apportioned to the time of the damage. In case of partial destruction or damage by fire or other casualty without fault of the Lessee, so as to render the premises untenable in whole or in part, there shall be an apportionment of the rent until the damage has been repaired. During such period of repair, Lessee shall have the right to obtain similar office space at the expense of Lessee or the Lessee may terminate the lease by giving fifteen (15) days written notice to the Lessor.

8. Lessor shall be liable to Lessee for any loss or damages suffered by Lessee which are a direct result of the failure of Lessor to perform an act required by this lease, and provided that Lessor could reasonably have complied with said requirement.

9. Upon termination of this lease, the Lessee will peaceably surrender the leased premises in as good order and condition as when received, reasonable use and wear and damage by fire, war, riots, insurrection, public calamity, by the elements, by act of God, or by circumstances over which Lessee had no control or for which Lessor is responsible pursuant to this lease, excepted.

10. The Lessor agrees that the Lessee, upon keeping and performing the covenants and agreements herein contained, shall at all times during the existence of this lease peaceably and quietly have, hold, and enjoy the leased premises free from the adverse claims of any person.

11. The failure of either party to insist in any instance upon strict performance of any of the terms and conditions herein set forth shall not be construed as a waiver of the same in any other instance. No modification of any provision hereof and no cancellation or surrender thereof shall be valid unless in writing and signed and agreed to by both parties.

12. Any hold over after the expiration of the said term or any extension thereof, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified, so far as applicable; however, either party shall give not less than sixty (60) days written notice to terminate the tenancy.

13. The parties to this lease agree and understand that the continuation of this lease agreement for the term period set forth herein, or any extension or renewal thereof, is dependent upon and subject to the appropriation, allocation or availability of funds for this purpose to the agency of the Lessee responsible for payment of said rental. The parties to this lease also agree that in the event the agency of the Lessee or that body responsible for the appropriations of said funds, in its sole discretion, determines, in view of its total local office operations that available funding for the payment of rents are insufficient to continue the operation of its local offices on the premise leased herein, it may choose to terminate the lease agreement set forth herein by giving Lessor written notice of said termination, and the lease agreement shall terminate immediately without any further liability to Lessee.

14. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed as follows: To the Lessor at County Manager, Cumberland County, PO Box 1829, Fayetteville, North Carolina and the Lessee at Attn: Director, Property and Construction, 1001 Mail Service Center, Raleigh, North Carolina 27699-1001 with a copy to State Property Office, Attn: Leasing Manager, 1321 Mail Service Center, Raleigh, North Carolina 27699-1321. Nothing herein contained shall preclude the giving of such notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice.

15. N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

IN TESTIMONY WHEREOF, this lease has been executed by the parties hereto, in duplicate originals, as of the date first above written.

SPECIFICATIONS FOR NON-ADVERTISED LEASE

1. A floor plan to scale or a plan with room dimensions is required. Plan should show building exits for the proposed space. Also provide the year the building was constructed.
2. This facility must provide environment that is barrier free and easily accessible to physically disabled staff, visitors and clientele. Compliance with the State Building Code and the Americans with Disabilities Act is required. Toilet facilities shall be ADA accessible and code compliant.
3. Air conditioning and heating system shall be maintained by Lessor including frequent filter cleaning and replacement. Year round ventilation shall be provided to prevent stale air problems and unacceptable CO2 content. Waiting areas, LAN room and conference room(s) may require additional HVAC.
4. Telecommunication room temperature should be within a range of 65° to a maximum of 75°. This is a 24-hour per day, 7 day per week requirement. A separate HVAC system may be required to maintain this temperature range.

5. All lighting and electrical maintenance shall be furnished by Lessor including the replacement of ballasts, light tubes and replacement bulbs.
6. The Lessor shall provide required fire extinguishers rated at least 2A on every level and within 75 feet and servicing, pest control (by a licensed technician) and outside trash disposal including provision for the handling of recycling items such as aluminum cans, cardboard and paper. Year-round maintenance is required to maintain a neat and professional appearance of the site at all times.
7. Lessor shall provide internal and external sign that will provide easy identification of the office by the general public.
8. Locking hardware is required on all storage rooms, equipment rooms, files rooms and LAN room. Supply storage closets requires shelving.
9. Lessor shall shampoo all carpet and clean the outside of the building windows annually.
10. Lessor shall be responsible for snow removal as quickly as possible to avoid work delays.
13. The per square foot price proposal is based on the floor plan and repair lists agreed upon by the State of North Carolina and includes but it not limited to: all partitions, demolition, and up fitting costs: building and grounds maintenance; property taxes; insurance; fire and safety inspection fees; stormwater fees; land transfer tax; common area maintenance and other building operational costs.
14. The number of keys to be provided to the State for each lockset shall be reasonably determined by the State prior to occupancy, at no cost to the State.
15. All parking areas shall be adequately lighted and located within a reasonable distance of the office.
16. Lessor shall provide all conduits and pull strings from above the ceiling to outlet boxes. State to install wiring and cover plates.

Lessor is in agreement with the above conditions and the conditions of the also signed "proposal to Lease to the State of North Carolina" Form P0-28.

4. Resolution of Intent to Lease Certain Real Property to Hometown Sports America, Inc, and Conduct Statutorily Required Advertising

BACKGROUND:

This item was presented at the December 7th Facilities Committee Meeting after Management approached the SwampDogs' General Manager to discuss terms for a lease agreement. The County Manager has received written notification from the team's General Manager, Mr. Jeremy Aagard, that the SwampDogs wish to renew the current lease for the same terms for one additional year. There is no desire to make any other adjustments to the lease agreement on the part of the SwampDogs at this time.

Hometown Sports America, Inc. wishes to renew an existing lease agreement with Cumberland County for J.P. Riddle Stadium located at 2823 Legion Road in Fayetteville. This agreement will expire December 31, 2017. The lease includes J.P. Riddle Stadium, all associated parking, and related facilities for use as a home field for the Fayetteville Swampdogs Baseball Team. *The lease terms would be as follows: up to two (2) consecutive one (1) year terms; annual rent shall be in the amount of \$12,000; the lessee shall maintain current concession rights; the lessor will pay utilities with the lessee paying a flat sum of One Hundred Fifty Dollars (\$150.00) per game in-season for any sponsored event at which baseball games are played and Two Hundred Fifty Dollars (\$250.00) per month, each month no games are played, during the off-season. Maintenance responsibilities will be split as agreed upon in the current lease agreement.*

RECOMMENDATION / PROPOSED ACTION:

The Facilities Committee approved the lease renewal without changes for an additional year and have forwarded the agreement to the Board of Commissioners for further consideration. *Staff recommends approval of the intent to lease and required advertising and adoption of the following resolution:*

BE IT RESOLVED that the Cumberland County Board of Commissioners finds that the real property known as J.P. Riddle Stadium and associated facilities located at 2823 Legion Road will not be needed for government purposes for the term proposed for the lease of the property to Hometown Sports America, Inc., and this Board intends to adopt a resolution at

its regular meeting to be held on February 5, 2018, approving the lease pursuant to the terms to be advertised as follows:

TAKE NOTICE that the Cumberland County Board of Commissioners has found that the real property described herein will not be needed for government purposes for the term of

the lease described herein and that the Board intends to adopt a resolution at its regular meeting to be held on December 18, 2017, approving the lease of J.P. Riddle Stadium and associated facilities located at 2823 Legion Road to Hometown Sports America, Inc. for up to two years, in one year consecutive terms, commencing on January 1, 2018 at an annual rental rate of \$12,000.

5. Cumberland County Facilities Committee Minutes December 7, 2017

MOTION: Commissioner Keefe moved to approve consent agenda Items 3.A. – 3.K.5. with the exception of Item 3.B. removed for separate discussion and action.

SECOND: Commissioner

VOTE: UNANIMOUS (6-0)

3.B. Approval of Articles of Incorporation for the Cumberland County Hospital System, Inc.

BACKGROUND:

The Board of Trustees for the Cumberland County Hospital System, Inc. d/b/a Cape Fear Valley Health approved their Articles of Incorporation for the Cumberland Hospital System at their full Board meeting on December 6, 2017.

The Board of Trustees is requesting approval of the Articles of Incorporation by the Cumberland County Board of Commissioners at their December 18, 2017 meeting.

A copy of the Articles of Incorporation are recorded below.

RECOMMENDATION / PROPOSED ACTION:

Approve the Articles of Incorporation for the Cumberland Health System, Inc. d/b/a Cape Fear Valley Health.

SECOND RESTATED AND
AMENDED ARTICLES OF
INCORPORATION OF
CUMBERLAND COUNTY HOSPITAL SYSTEM,
INC.

ARTICLE
ONE

NAME: The name of this Corporation is Cumberland County Hospital System, Inc.

ARTICLE
TWO

DURATION: The period of duration of this Corporation shall be unlimited.

ARTICLE
THREE

PURPOSES: The purposes for which the Corporation is organized are:

I. The operation and maintenance of community general hospitals and related facilities.

2. The Corporation shall principally be concerned with the health care of the people of Cumberland County, but the Corporation may also provide health care to other persons who are in need of health care from the Corporation.

3. To contract with physicians and others for the delivery of health care, to construct, maintain and operate or lease health care related buildings and clinics, nursing homes and other related facilities, and to perform all other activities related to health care, principally for the benefit of the people of Cumberland County, but also for the benefit of other people who need health care.

4. This Corporation shall perform no function or activity, except that which is related to the accomplishment of the foregoing purposes.

ARTICLE
FOUR

MEMBERS: This Corporation shall have no members.

ARTICLE
FIVE

DIRECTORS: The Corporation shall have twenty Trustees who shall be the directors of the Corporation. These Trustees shall direct the management of the Corporation, and perform the duties and have the responsibilities of corporate directors. No Trustee may be removed from office except for just cause by action of a majority of the Board of Trustees.

The Cumberland County Manager and the Chair of the Cape Fear Valley Health Foundation (or his or her designee) shall be non-voting, ex officio members of the Board of Trustees.

The Board of Trustees shall be comprised of the following:

- (a) Seven Trustees who are the seven members of the Cumberland County Board of Commissioners ("Board of Commissioners"), as further reflected herein Seats 1-7.
- (b) Eight at large Trustees, who shall (1) be appointed by the Board of Commissioners, (2) be a resident of Cumberland County, North Carolina or a County in North Carolina where Corporation does business, (3) be eighteen years of age or older, (4) demonstrate an interest in and concern for the quality of health care for Cumberland County's residents and the Corporation's patients, and (5) not be an employee of Cumberland County or the Corporation, as further reflected herein Seats 8-15. Two of these Trustees shall be Medical Doctors currently or previously licensed to practice medicine in the State of North Carolina; one of these Trustees shall be a Nurse currently or previously licensed to practice nursing in the State of North Carolina. The Board of Trustees of Cumberland County Hospital System, Inc. shall nominate one Medical Doctor for each of these Medical Doctor Trustee positions, when such Trustee's term is expiring. Such nominations shall not be binding upon the Board of Commissioners.
- (c) Five at large members, who shall (1) be appointed by the Board of Trustees, (2) be a resident of Cumberland County, North Carolina, or a County in North Carolina where Corporation does business, (3) be eighteen years of age or older, (4) demonstrate an interest in and concern for the quality of health care for Cumberland County's residents and the Corporation's patients, and (5) except as otherwise set forth in this Article V(c), not be an employee of Cumberland County or the Corporation, as further reflected herein Seats 16-20. Three of these Trustees shall be Medical Doctors currently or previously licensed to practice medicine in the State of North Carolina; one of these Trustees shall be a Nurse currently or previously licensed to practice nursing in the State of North Carolina. Two of these Medical Doctors shall be the Chief and Vice-Chief of the Medical Staff of Cumberland County Hospital System, Inc., regardless of employment status with Corporation.

The term of office for all Trustees shall be three years, provided, however, that each member of the Board of Commissioners shall serve during his or her term of county office, the Chief of Staff and Vice-Chief of Staff shall serve during their terms of office on the medical staff, and further provided that a Trustee appointed to fill an unexpired term shall serve the remainder of that term.

The terms of the members of the Board of Trustees shall be staggered, and appointments shall be made, so that approximately one-third of the Trustees' terms shall expire each year (other than members of the Board of Commissioners or the Chief of Staff or the Vice-Chief of Staff, who shall serve during his or her term in office).

All vacancies in the membership of the Board of Trustees by reason of death, resignation, or as otherwise provided by the By-laws, shall be immediately reported by the Board

of Trustees to the Board of Commissioners. The Board of Commissioners or the Board of Trustees, depending on the appointing authority for the Trustee, shall fill such vacancies as soon as practicable by appointment for the remainder of the unexpired term only.

The Board of Trustees may suggest to the Board of Commissioners the nomination of appropriate persons for the office of Trustee when any such County Board appointed trusteeship may become open from time to time, for whatever reason.

No person (except members of the Board of Commissioners and the Chief of Staff or the Vice-Chief of Staff) shall serve more than two consecutive full terms of three years as a member of the Board of Trustees; provided, however, upon the request of the Board of Commissioners with respect to its eight at large trustee appointments and approval of the Corporation for all at large trustee appointments, the term of a current member of the Board of Trustees may be extended for an additional year based on special circumstances necessitating consistency and continuity of leadership on the Board of Trustees. Service as a Trustee for the remainder of an unexpired term or of a staggered short term shall not be included in computing maximum consecutive service on the Board of Trustees. Every Trustee shall be subject to and comply with such conflicts of interest statutes, regulations, ordinances, rules, policies and codes as may be applicable.

ARTICLE SIX

POWERS: The Board shall have the power to adopt, alter, amend and rescind the necessary articles and by-laws for the proper functioning of the Board of Trustees and the good government of the corporate affairs by a majority vote of the Trustees in office at the time.

However, the Board shall not alter the provisions of Articles Four, Five, Six, or Ten without the consent of the Board of Commissioners.

ARTICLE SEVEN

OFFICERS: The Board of Trustees shall annually elect officers from its own membership consisting of: (1) Chair; (2) Vice Chair; (3) Secretary and Treasurer.

All such officers shall be members of the Board of Trustees, provided however that the Chairman may not also be a member of the Board of Commissioners. The Corporation shall employ a President /Chief Executive Officer, who shall be appointed by the Board of Trustees, with the approval of the Board of Trustees. The President/Chief Executive Officer shall serve at the pleasure of the Board of Trustees, who shall have authority to discharge the President/Chief Executive Officer. The President/Chief Executive Officer will be responsible to the Trustees for the proper and efficient management of the corporate affairs.

ARTICLE EIGHT

NOT FOR PROFIT: In no event shall any person, firm or corporation acquire or be entitled to any emoluments, property or things of value from the Corporation other than compensation or benefits earned under a contract of employment or as officers, or under other contracts properly entered into as a business transaction of the Corporation.

The Corporation shall not issue capital stock and shall be operated without profit to any Trustee, officer or any other individual, and no part of the net earnings shall inure, or may lawfully inure, to the benefit of any Trustee, officer or any other individual. No Trustee shall receive compensation for his or her service as a Trustee, but shall be entitled to reasonable reimbursement for expenses incurred in connection with the performance of his or her duties as a Trustee.

ARTICLE NINE

AUDIT AND BUDGET: The Board of Trustees shall cause annual, certified audits to be made of the Corporation. The Board of Trustees shall also cause a budget to be prepared for each fiscal year.

ARTICLE
TEN

OPERATION AND PLANNING: The Corporation will continue the operation of its hospitals as fully accredited community general hospitals. The Corporation shall also use good faith efforts towards the goal of increasing its utilization and patronage of historically underutilized businesses.

An affirmative vote of sixteen (16) of the twenty (20) members of the Board of Trustees of the Corporation in office and the consent of Board of Commissioners shall be required in order to terminate the provision of emergency medical services or to sell, lease, enter into a management contract with, merge, dissolve or liquidate the Corporation. If the Board of Commissioners does consent to the sale, lease or other disposition of all or a substantial portion of the assets of the Corporation, then the proceeds of such disposition, net of amounts used to pay or defray the expenses of such disposition and amounts used to pay or defease debt allocable to the disposed assets, shall be remitted to the County to be used exclusively for the accomplishments of the purposes for which the Corporation was formed. In the event of the dissolution or liquidation of the Corporation, after paying or adequately providing for the debts and obligations of the Corporation, the Board of Trustees shall donate, transfer, deliver and convey all of its moneys, properties, and other assets: (a) to any successor organization having purposes which are similar to the existing Corporation's purposes, provided that the successor organization is exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provisions of any future United States Internal Revenue law and the successor corporation and the donation, transfer, delivery and conveyance to it are approved in writing by the Board of Commissioners; or (b) if there is no successor corporation, then to the County of Cumberland, to be used exclusively for the accomplishments of the purposes for which the Corporation was formed.

ARTICLE
ELEVEN

ADDRESS: The address of the principle and registered office is 1638 Owen Drive, City of Fayetteville, County of Cumberland, State of North Carolina. The mailing address of the registered office is P. O. Box 2000, Fayetteville, North Carolina 28302. The name of the registered agent is Michael Nagowski, and his address is the same as the registered office stated above.

IN WITNESS WHEREOF, CUMBERLAND COUNTY HOSPITAL SYSTEM, INC. has caused this instrument to be signed in its name by its Chief Executive Officer. These Amended and Restated Articles of Incorporation are to be effective upon filing.

Commissioner Keefe stated the Articles of Incorporation for the Cumberland County Hospital System, Inc. contain a change that requests the Board of Commissioners change its policy for appointments to boards and commissions. Commissioner Keefe stated he questions whether this conflicts with the Board of Commissioners current Rules of Procedure and after speaking with County Attorney Rick Moorefield, he believes there is room for clarification on this revision.

MOTION: Commissioner Keefe moved to refer the Articles of Incorporation for the Cumberland County Hospital System, Inc. to the Policy Committee for clarification and report back to the full Board.

SECOND: Commissioner Faircloth

DISCUSSION: Commissioner Council stated this item was adopted by the Board of Commissioners individually as members of the Cumberland County Hospital System, Inc. Board of Trustees. Commissioner Council asked whether Mr. Moorefield found anything wrong with the language. Commissioner Keefe stated sometimes the Board of Commissioners have dual roles and have to vote wearing two different hats. Mr. Moorefield stated the concern is related to the requirement in Article Five, one of the provisions that cannot be changed without the consent of the Board of Commissioners. Mr. Moorefield stated Commissioner Keefe's concern is the language that states the Board "may" appoint trustees from counties in which the hospital corporation does business and whether that violates the Board of Commissioners' Rules of Procedure that state members appointed to boards and

commissions must reside in Cumberland County. Mr. Moorefield stated the Rules of Procedure also state all appointments will be made in accordance with the statute or ordinance that created the board, if applicable. Mr. Moorefield stated the Articles of Incorporation are not a statute or ordinance but a corporate legal document that created the Board of Trustees. Mr. Moorefield stated the proposed amendment to the Articles of Incorporation do not violate the Rules of Procedure because they do not require the appointment of an individual from outside the county. Commissioner Adams stated it will be difficult for the hospital to be successful if it does not have representation or individuals engaged from other counties in which it does business. Commissioner Adams stated the Articles of Incorporation do not make it mandatory and therefore he does not think they violate the Rules of Procedures. Commissioner Boose asked whether the Board of Commissioners would be in violation of their Rules of Procedure if they voted as Trustees to appoint an individual outside Cumberland County. Mr. Moorefield stated the Rules of Procedure do not apply to hospital trustee appointments but only to the Board of Commissioners' appointments of the eight at-large trustees. Commissioner Adams spoke to changes in the field of healthcare and stated as the hospital grows, it can be good to have a trustee from outside the county, regardless of who makes the appointment.

VOTE: UNANIMOUS (6-0)

4. PUBLIC HEARINGS

Uncontested Rezoning Cases

A. Case P17-44

BACKGROUND:

Case P17-44: Rezoning of 7.64+/- acres from RR Rural Residential & RR Rural Residential/CU Conditional Use Overlay for a welding shop and dwelling to RR Rural Residential or to a more restrictive zoning district, located at 3873 Butler Nursery Road, submitted by Casey Jones on behalf of George B. Jones Heirs (owner).

RECOMMENDATION / PROPOSED ACTION:

Planning Board Action:

Unanimously recommended approval of the staff recommendation at the November 21, 2017 meeting for the reasons stated in the recommendations of the Planning Staff and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation: Staff recommends approval of the rezoning to remove the Conditional Use Overlay for a welding shop at the property owner's request and find the South Central Land Use Plan has been examined and does not address this particular situation; and further find approval of the request is reasonable and in the public interest because Conditional Use Overlays were approved prior to 2005 in order to allow land uses that were not permitted in the current zoning district in exceptional situations, later deemed as an improper use of zoning, and that the initially zoned approved business is no longer in operation at this location.

If the Board of Commissioners wishes to follow the recommendation of the Planning Board and Planning Staff in this case, the following motion is appropriate:

MOTION:

In Case P17-44, I move to approve the rezoning to remove the Conditional Use Overlay for a welding shop at the property owner's request and find the South Central Land Use Plan has been examined and does not address this particular situation; and further find approval of the request is reasonable and in the public interest because the business is no longer in operation at this location.

Tom Lloyd, Planning and Inspections Director, reviewed the background information recorded

above. Mr. Lloyd stated Case P17-44 received no opposition at the meeting of the Planning Board and there was unanimous recommendation for approval.

Vice Chair Council opened the public hearing for Case P17-44.

The clerk to the board advised there were no speakers for Case P17-44.

Vice Chair Council closed the public hearing for Case P17-44.

MOTION: Commissioner Keefe moved in Case P17-44 to approve the rezoning to remove the Conditional Use Overlay for a welding shop at the property owner's request and find the South Central Land Use Plan has been examined and does not address this particular situation; and further find approval of the request is reasonable and in the public interest because the business is no longer in operation at this location.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

Commissioner Adams noted the change in the format of the motion. Mr. Moorefield explained the statute was revised effective for applications for rezoning filed after October 1, 2017 such that only one motion is now necessary. Mr. Moorefield stated the new motion contains all the statutory requirements but is different in format.

B. Case P17-45

Case P17-45: Rezoning of 10.42+/- acres from R6A Residential to C(P) Planned Commercial or to a more restrictive zoning district; located on east side of SR 1138 (Applebury Lane) across from the intersection of Cumberland Bay Drive; submitted by Albert Norton Jr. on behalf of Ole Bluff LLC (owner). (Hope Mills & County)

RECOMMENDATION / PROPOSED ACTION:

Planning Board Action:

Unanimously recommended approval of the staff recommendation at the November 21, 2017 meeting for the reasons stated in the recommendations of the Planning Staff and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation:

Staff recommends to approve the rezoning from R6A Residential to C(P) Planned Commercial and find it is consistent with the adopted Southwest Cumberland Land Use Plan, which calls for "Mixed Use and Heavy Commercial" developments at this location, mixed use allows for retail and commercial uses; and further find that approval of the request is reasonable and in the public interest because all uses allowed within the R6A district are not suitable for a gateway into the town. In addition, approval will allow for increased commercial development of property under the same ownership and located at a major intersection.

If the Board of Commissioners wishes to follow the recommendation of the Planning Board and Planning Staff in this case, the following motion is appropriate:

MOTION:

In Case P17-45, I move to approve the rezoning from R6A Residential to C(P) Planned Commercial and find it is consistent with the adopted Southwest Cumberland Land Use Plan, which calls for "Mixed Use and Heavy Commercial" developments at this location and mixed use allows for retail and commercial uses; and further find that approval of the request is reasonable and in the public interest because all uses allowed within the R6A district would not be suitable at this location. In addition, approval will allow for increased commercial development of property under the same ownership and located at a major intersection.

Tom Lloyd, Planning and Inspections Director, reviewed the background information recorded above. Mr. Lloyd stated Case P17-45 received no opposition at the meeting of the Planning Board and there was unanimous recommendation for approval.

Vice Chair Council opened the public hearing for Case P17-45.

The clerk to the board advised there were no speakers for Case P17-45.

Vice Chair Council closed the public hearing for Case P17-45.

MOTION: Commissioner Faircloth moved in Case P17-45 to approve the rezoning from R6A Residential to C(P) Planned Commercial and find it is consistent with the adopted Southwest Cumberland Land Use Plan, which calls for “Mixed Use and Heavy Commercial” developments at this location and mixed use allows for retail and commercial uses; and further find that approval of the request is reasonable and in the public interest because all uses allowed within the R6A district would not be suitable at this location. In addition, approval will allow for increased commercial development of property under the same ownership and located at a major intersection.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (6-0)

C. Case P17-49

BACKGROUND:

Case P17-49: Rezoning of .68+/- acres from O&I(P) Planned Office and Institutional to C(P) Planned Commercial or to a more restrictive zoning district, located at 3886 & 3890 Cumberland Road, submitted by Eric Nantes & Leslie Boswell (owners).

RECOMMENDATION / PROPOSED ACTION:

Planning Board Action:

Unanimously recommended approval of the staff recommendation at the November 21, 2017 meeting for the reasons stated in the recommendations of the Planning Staff and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation:

Staff recommends the board approve the rezoning from O&I(P) Planned Office and Institutional to C(P) Planned Commercial and find it is consistent with the Southwest Cumberland Land Use Plan which calls for “Heavy Commercial” at this location; and further find approval of the request is reasonable and in the public interest because even though public sewer is normally required for a favorable recommendation to commercial, sewer is not available and the district requested is in harmony with the area along Cumberland Road that has been transitioning from residential to light and heavy commercial over that last ten years.

If the Board of Commissioners wishes to follow the recommendations of the Planning Board and Planning Staff in this case, the following motion is appropriate:

MOTION:

In Case P17-49, I move to approve the rezoning from O&I(P) Planned Office and Institutional to C(P) Planned Commercial and find it is consistent with the adopted Southwest Cumberland Land Use Plan which calls for “Heavy Commercial” at this location; and further find approval of the request is reasonable and in the public interest because although public sewer is normally required for a favorable recommendation to commercial zoning, sewer is not available and the district requested is in harmony with the area along Cumberland Road that has been transitioning from residential to light and heavy commercial over the last ten years.

Tom Lloyd, Planning and Inspections Director, reviewed the background information recorded above. Mr. Lloyd stated Case P17-49 received no opposition at the meeting of the Planning Board and there was unanimous recommendation for approval.

Vice Chair Council opened the public hearing for Case P17-49.

The clerk to the board advised there were no speakers for Case P17-49.

Vice Chair closed the public hearing for Case P17-49.

MOTION: Commissioner Faircloth moved in Case P17-49 to approve the rezoning from O&I(P) Planned Office and Institutional to C(P) Planned Commercial and find it is consistent with the adopted Southwest Cumberland Land Use Plan which calls for “Heavy Commercial” at this location; and further find approval of the request is reasonable and in the public interest because although public sewer is normally required for a favorable recommendation to commercial zoning, sewer is not available and the district requested is in harmony with the area along Cumberland Road that has been transitioning from residential to light and heavy commercial over the last ten years.

SECOND: Commissioner Council

DISCUSSION: Commissioner Adams asked whether problems will occur with as commercial development is added without sewer. Mr. Lloyd stated staff do not feel more sewer will be required in this situation from planned office/institutional to planned commercial. Mr. Lloyd spoke to areas with and without sewer along Cumberland Road and Boone Trail and stated planners would like to see donut areas without sewer incorporated into the city and provided sewer. Commissioner Keefe posed questions about the checkerboard of zoning uses along Cumberland Road and asked whether it would be feasible to overlay the area to make it commercial which might help with sewer. Mr. Lloyd stated there are residential uses in the area and were the structures to be burned or destroyed more than 50%, they could not be rebuilt or repaired as residential. Commissioner Keefe stated he would like this area to be looked at for zoning consistency along Cumberland Road. Commissioner Council asked how long the review process would take and how much staff time would be needed. Mr. Lloyd stated a study along Boone Trail to Hope Mills Road could be completed in about three months, taken to the Planning Board and then on to the Board of Commissioners. Mr. Lloyd stated the 2030 Plan calls for urban in most of these areas and should additional requests come in while the review is being conducted, staff will bring them forward to the Board.

VOTE: UNANIMOUS (6-0)

Ms. Cannon clarified whether the review should come to the Policy Committee or the full Board. Consensus was for the review to be presented to the Policy Committee.

D. Case P17-50

BACKGROUND:

Case P17-50: Rezoning of 2.36+/- acres from A1 Agricultural to R40A Residential or to a more restrictive zoning district, located at 4764 Beaver Dam Church Road, submitted by Lynetta Grace Faircloth (owner).

RECOMMENDATION / PROPOSED ACTION:

Planning Board Action: Unanimously recommended approval of the staff recommendation at the November 21, 2017 meeting for the reasons stated in the recommendations of the Planning Staff and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation: Staff recommends the board approve the rezoning from A1 Agricultural to R40A Residential and find: a. The approval is an amendment to the adopted Southeast Cumberland Land Use Plan (2016) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map; b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: approval of the request is consistent with the Southeast Land Use Plan text in that it will allow for lot sizes and land uses that accommodate residential development while protecting and maintaining the rural residential

character of the farmland area; c. And, this rezoning approval is reasonable and in the public interest because the district requested will limit uses on this site to primarily single-family residential uses and is accordant with previous approvals in the general area.

If the Board of Commissioners wishes to follow the recommendations of the Planning Board and Planning Staff in this case, the following motion is appropriate:

MOTION:

In Case P17-50, I move to approve the rezoning from A1 Agricultural to R40A Residential and find:

- (a) The approval is an amendment to the adopted Southeast Cumberland Land Use Plan (2016) map; and the Board of Commissioners shall not require any additional request or application for amendment to the said map.
- (b) The following change in conditions was considered in amending the zoning ordinance or zoning map to meet the development needs of the community: approval of the request is consistent with the text of the Southeast Land Use Plan in that it will allow for lot sizes and land uses that accommodate residential development while protecting and maintaining the rural residential character of the farmland area
- (c) And, this rezoning approval is reasonable and in the public interest because the district requested will limit uses on this site to primarily single- family residential uses and is in accord with previous rezoning approvals in this area.

Tom Lloyd, Planning and Inspections Director, reviewed the background information recorded above and proposed motions should the Board approve the rezoning. Mr. Lloyd stated Case P17-50 received no opposition at the meeting of the Planning Board and there was unanimous recommendation for approval.

Vice Chair Council opened the public hearing for Case P17-50.

The clerk to the board advised there were no speakers for Case P17-50.

Vice Chair Council closed the public hearing for Case P17-50.

MOTION: Commissioner Faircloth moved in Case P17-50 to to approve the rezoning from A1 Agricultural to R40A Residential and find:

- (a) The approval is an amendment to the adopted Southeast Cumberland Land Use Plan (2016) map; and the Board of Commissioners shall not require any additional request or application for amendment to the said map.
- (b) The following change in conditions was considered in amending the zoning ordinance or zoning map to meet the development needs of the community: approval of the request is consistent with the text of the Southeast Land Use Plan in that it will allow for lot sizes and land uses that accommodate residential development while protecting and maintaining the rural residential character of the farmland area
- (c) And, this rezoning approval is reasonable and in the public interest because the district requested will limit uses on this site to primarily single-family residential uses and is in accord with previous rezoning approvals in this area.

SECOND: Commissioner Boose

DISCUSSION: Commissioner Boose posed questions about the flag-shaped area and surrounding ownership. Mr. Lloyd stated they are separately owned.

VOTE: UNANIMOUS (6-0)

5. ITEMS OF BUSINESS

There were no items of business.

6. NOMINATIONS

Discussion followed as to whether Timothy Richardson was eligible for reappointment to the Fayetteville Cumberland County Economic Development Corporation. Mr. Moorefield stated his understanding is that Timothy Richardson has only been appointed for one term by the Board of Commissioners with previous appointments being made by the Chamber of Commerce. Commissioner Boose nominated Timothy Richardson for the FCEDC. Commissioner Adams stated his understanding is that Timothy Richardson was appointed to the FCEDC for only two years to provide continuity from the former to the current board, which is the reason he nominated Kelvin Farmer. Commissioner Faircloth stated if in fact Timothy Richardson is eligible for reappointment, then he should be considered.

7. APPOINTMENTS

- A. Cumberland County Home and Community Care Block Grant Committee (7 Vacancies)

NOMINEE(S)

Older Consumer:

Stephen MacDonald (new appointment)

Cassandra McMillion (reappointment)

Aging Service Provider:

Kendra Haywood (new appointment)

Antoinette Hernandez (reappointment) Lisa Hughes (new appointment)

Helen Godwin (reappointment)

Civic Representative:

Robin Kivett (reappointment)

MOTION: Commissioner Keefe moved to appoint all nominees to their respective positions on the Cumberland County Home and Community Care Block Grant Committee.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

- B. Fayetteville Cumberland County Economic Development Corporation (1 Vacancy)

NOMINEE(S)

At-Large Representative:

Kelvin Farmer

Timothy Richardson

Vice Chair Council called for a vote on the appointment to the FCEDC. Commissioners Evans, Council and Adams voted for Kelvin Farmer. Commissioners Keefe, Faircloth and Boose voted for Timothy Richardson. Due the lack of a majority vote, neither nominee was appointed. The item will be forwarded to the next meeting.

Vice Chair Council recessed the Cumberland County Board of Commissioners' meeting and convened the meeting of the Overhills Park Water and Sewer District Governing Board.

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

1. Items of Business

- A. Approval of Minutes of the September 6, 2016 Overhills Park Water & Sewer District Governing Board

MOTION: Commissioner Council moved to approve the September 6, 2016 minutes.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

B. Overhills Park Governing Board: Consideration of Condemnation & Quick-Take Powers of Easement for Overhills Park Water & Sewer District

BACKGROUND:

At the September 7, 2017 Facilities Committee, Engineering & Infrastructure (E&I) Staff made the Committee aware that a portion of the Overhills Park Sewer Project would have to be redesigned based on an existing 36-inch pressurized force main along E. Manchester Road and that seven easements would have to be acquired to install the rerouted sewer line. This redesign was recently completed. The Legal Department has completed title reports for each of the properties and approved the easement documents that will be used to execute the easements.

Currently E&I Staff have received verbal confirmation with all but one of the property owners that they would grant the Overhills Park Water & Sewer District the needed easements to install the sewer line. This property is located at 1435 E. Manchester Road and is in the middle of the properties in which easements are being acquired (see attached map). E&I Staff has met with the property owners on multiple occasions to discuss the easement. It is important to point out that the property located at 1435 E. Manchester Road has a non-functional septic system and has been deemed uninhabitable by Environmental Health due to the failing septic system. Without this easement, the lots to the east of this parcel cannot be served with public sewer. Due to this, E&I Staff is requesting condemnation and quick-take powers of the needed easement to keep this project moving towards completion.

This was presented and approved by the Facilities Committee on December 7th.

RECOMMENDATION / PROPOSED ACTION:

The Engineering and Infrastructure Director, County Management, the County Attorney and the Facilities Committee recommend that the Board of Commissioners approve the condemnation of the needed easements in case an agreement cannot be reached with any of the property owners.

MOTION: Commissioner Council moved to approve the condemnation of the needed easements in case an agreement cannot be reached with any of the property owners.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

There being no further matters of business,

Vice Chair Council adjourned the meeting of the Overhills Park Water and Sewer District Governing Board and reconvened the meeting of the Cumberland County Board of Commissioners.

Vice Chair Council called the meeting of the Board of Commissioners to order.

8. **CLOSED SESSION:**

A. Attorney-Client Matter(s) Pursuant to NCGS 143.318.11(a)(3)

MOTION: Commissioner Faircloth moved to go into closed session for Attorney Client Matter(s) pursuant to NCGS 143-318.11(a)(3).

SECOND: Commissioner Boose

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Keefe moved to reconvene in open session.

SECOND: Commissioner Faircloth

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Keefe moved to adjourn.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS (6-0)

There being no further business, the meeting adjourned at 9:15 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board