

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AND
CUMBERLAND COUNTY LEGISLATIVE DELEGATION
FRIDAY, MARCH 9, 2018 – 8:30 AM
JUDGE E. MAURICE BRASWELL CUMBERLAND COUNTY COURTHOUSE
117 DICK STREET – ROOM 119
SPECIAL MEETING MINUTES

CUMBERLAND COUNTY

PRESENT:

Commissioner Larry Lancaster, Chairman
Commissioner Jeannette Council, Vice-Chairman
Commissioner Michael Boose (arrived at 8:42 a.m.)
Commissioner Charles Evans (left at 9:19 a.m.)
Commissioner Glenn Adams
Commissioner Jimmy Keefe
Commissioner Marshall Faircloth
Amy Cannon, County Manager
Tracy Jackson, Assistant County Manager
Melissa Cardinali, Assistant County Manager
Sally Shutt, Assistant County Manager
Duane Holder, Assistant County Manager
Rick Moorefield, County Attorney
Jeffery Brown, Engineering & Infrastructure Director
Jody Risacher, Library Director
Brenda Jackson, Social Services Director
Vicki Evans, Finance Director
Jon Soles, Public Information Specialist
Heather Harris, Budget Analyst
Deborah Shaw, Budget Analyst
Joe Utley, Tax Administrator
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board

LEGISLATIVE MEMBERS

PRESENT:

Senator Ben Clark, 21st District
Representative John Szoka, 45th District
Representative Elmer Floyd, 43rd District
Representative Billy Richardson, 44th District (left at 8:52 a.m.)
Senator Wesley Meredith, 19th District
Representative Marvin W. Lucas, 42nd District

OTHERS PRESENT: Press

Chairman Larry Lancaster called the special meeting of the Cumberland County Board of Commissioners to order.

Senator Wesley Meredith welcomed everyone in attendance.

1. WATER EXPANSION/GEN X CONTAMINATION

Request for funding and support for extending public water lines in contaminated areas

Support endeavors to determine health impact and to hold Chemours accountable

BACKGROUND:

- The General Assembly approved HB56 in October that included allocating \$435,000.
 - \$185,000 to the Cape Fear Public Utility Authority to study methods to remove GenX from the water supply and to pay for ongoing monitoring.
 - \$250,000 to UNC-Wilmington to study GenX and prepare a final report on findings and recommendations for legislative action by April 1 to the Environmental Review Commission.

- House Bill 189 – An Act to Implement Measures to Address “GenX” and Other Emerging Contaminants
 - House approved. Senate made changes. Bill will go back to the House.
 - Directs the NCDEQ to review historical discharge permits and coordinate with other state and federal agencies to share water quality information.
 - Sets up a process for the North Carolina Policy Collaboratory at UNC-Chapel Hill to coordinate efforts using technology and instrumentation to measure discharge and emerging contaminants in the event the U.S. Environmental Protection Agency no longer provides free access to its analytical instrumentation and technology (often referred to as mass spectrometers).
 - The bill authorizes the collaboratory to use \$1 million in funds each year over the next two years for this purpose and appropriates \$2.4 million in additional funds to DEQ to implement the bill.

Cumberland County is asking for funding to extend water lines in the contaminated areas.

On February 19, 2018, the Cumberland County Board of Commissioners unanimously approved hiring the local engineering firm Moorman, Kizer & Reitzel Inc. to complete a Preliminary Engineering Report for extending water lines in the Gray’s Creek Water and Sewer District. Private wells in the district have tested above the state’s provisional health goal of 140 parts per trillion for GenX.

Commissioners also approved an Interlocal Agreement with the Public Works Commission to pay an equal share of the \$129,330 cost for the report.

Amy Cannon, County Manager, stated the Board of Commissioners have identified water expansion as the number one goal for the coming year with the priority area being the contamination in Gray’s Creek. Ms. Cannon stated in 2009 the County conducted a feasibility study about the cost for expanding water throughout Cumberland County. Ms. Cannon further stated the County has taken the first step in the process by taking a look at Gray’s Creek through a preliminary engineering study to update the numbers from the 2009 study. Ms. Cannon stated the study in 2009 was based on rural fire standards and the updated study will look at fire suppression standards from a higher level. Ms. Cannon stated the preliminary engineering report should be ready around October 2018. Ms. Cannon stated preliminary discussions with USDA about potential grants and loans for the Gray’s Creek area, but it is unlikely the area will qualify for grants. Ms. Cannon stated the project has to be affordable for the citizens, so the County is asking for any assistance from the state in the cost of extending water lines to this area.

Senator Meredith asked if Cumberland County had been working with Bladen County since they have a closer water source than Cumberland County. Ms. Cannon stated as a part of the study to meet USDA loan requirements the study has to look at all options available for getting water to the area, so Bladen County will be explored as well as PWC and any other viable source. Representative Szoka asked why Cumberland County will not qualify for any grants and Ms. Cannon stated due to income standards by USDA the Gray’s Creek area would not qualify for any grants at this time.

2. TAX AND FINANCE

A. FOOD & BEVERAGE TAX

Amend the Prepared Food and Beverage Tax (Session Law 1993-413) to repeal the sunset provision. Request the removal of the provision that the tax be repealed when the debt service on the Crown Coliseum Complex is paid in 2024.

Expand the permitted uses of the tax proceeds to allow greater flexibility.

BACKGROUND:

Food and Beverage tax proceeds are now restricted to capital needs and operating, marketing and promoting the Crown Complex. The existing debt service will be paid in 2024 and the current tax

will be repealed; however, the County will need to continue to maintain the Crown's facilities and subsidize the operations.

Request that Session Law 1993-413 be amended by removing the sunset requirement and expand the permitted uses of the tax proceeds to any purpose that will promote or enhance tourism, travel, arts, entertainment and sports venues and activities within Cumberland County.

The Crown facilities have ongoing capital needs, including updating and retrofitting. In addition, the Board of Commissioners has established capital planning priorities that include renovating the Crown Theater or constructing a performing arts center and supporting a Civil War History and Reconstruction Center. These priorities could benefit from local occupancy taxes if the legislation were changed to allow for tourism-related capital expenditures.

Commissioner Adams stated regarding the sunset provision out at the Crown on the debt services the county is asking the delegation to change the language from "shall" to "may" which would allow the County to not have the sunset provision. Commissioner Adams stated he sent a letter to the legislative delegation regarding this request.

B. LOCAL OCCUPANCY TAX

Amend Local Occupancy Tax to allow County to operate under House Finance Committee guidelines for Local Occupancy Tax

BACKGROUND:

The County is seeking changes in the local occupancy tax legislation to allow it to comply with the House Finance Committee's guidelines. This change is being requested after reviewing disbursement methods, oversight and protocols for ensuring funding is spent in accordance with the original intent of the legislation.

The County wants to operate under the same rules as other counties that collect local occupancy tax. This change will allow for a more inclusive and representative Tourism and Development Authority Board and allow for funding to go toward capital projects related to tourism.

Cumberland County's local occupancy legislation (Session Law 2001-484) dictates the makeup of the Tourism Development Authority and limits the number of eligible individuals to:

The Authority shall be composed of the following members: (1) Two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners. (2) Two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners. (3) The President of the Fayetteville Area Chamber of Commerce, in an ex officio capacity. (4) The County Manager of Cumberland County, in an ex officio capacity. (5) One member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.

The House Finance Committee guidelines provide that "at least ½ of the members must be currently members active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax".

House guidelines allow for 1/3 of funding to be used for tourism-related capital expenditures.

Commissioner Keefe stated Cumberland County is asking to be considered in the House guidelines regarding local occupancy tax. Commissioner Keefe further stated Cumberland County wants to be considered equally with all other counties in the state which would allow the County more flexibility. Representative Lucas stated he would suggest that Cumberland County not tamper with the issue right now because there are some individuals around the state that may want to change Cumberland County's position regarding local occupancy tax that would not be

advantageous to Cumberland County. Representative Floyd stated he does not believe the County should pursue this issue at this time. Representative Floyd further stated if this came before him for a vote he would request a percentage of the funds go to the MLK Committee. Representative Szoka stated the delegation does understand Cumberland County's request regarding local occupancy tax but there are many other factors the delegation has to consider.

3 SALES TAX

A. DISCUSS THE POTENTIAL FOR ARTICLE 43 SALES TAX AS AN OPTION FOR PUBLIC SAFETY FUNDING

BACKGROUND:

The Public Safety Task Force is exploring options for funding of fire service. Volunteer fire departments are facing decreasing numbers of volunteers and increasing demands such as medical calls. Cumberland County is at the maximum for Article 46 and would like the flexibility to use Article 43 (transit) for public safety.

H333 An Act to Give Counties Additional Flexibility with Regard to the Local Option Sales and Use Tax Without Increasing the Existing Maximum Tax Rate was introduced in the long session and approved in the House. It was sent to a Senate Committee. It calls for using "Article 43A" for public education and general purposes "as provided in Article 46".

B. SALES TAX COLLECTIONS ON SERVICES AND REMOTE SALES

BACKGROUND:

Online sales – Counties are losing millions of dollars in sales tax revenue due to online sales. Vendors who have a physical location in North Carolina are required to send in tax payments, which include both over-the-counter and online sales. Vendors who do not have a physical presence in North Carolina are not required to send these in and if they do, they are doing so on the honor system.

The Supreme Court will hear a case to determine if states and local governments can require retailers to collect sales tax even if they don't have a physical location in the state. This is a NACo legislative priority.

The County does not have access to sales information by type of sale. The tax dollars come in as one bucket of money, with a breakdown by Article of Sales Tax only. There is no distinction between goods and services in the reports, therefore, no way to determine how collections are going related to services.

Vicki Evans, Finance Director, stated she contacted the Department of Revenue with questions about sales tax distribution. Ms. Evans further stated she asked how much sales tax revenues are driven from services and was told the Department of Revenue gets the money in lump and distributes by article so there is no detail on sales tax from services. Representative Szoka asked if overall online sales tax is growing, neutral or declining in Cumberland County. Ms. Evans stated without having the specific data from the Department of Revenue the County is not able to tell if there has been growth or not. Commissioner Keefe stated the County needs to know if they are receiving a fair percentage. Representative Lucas stated it may be time to look at this issue again because some of the rural counties are not so rural anymore.

4 SCHOOL FUNDING

A. SUPPORT THE LEGISLATION TO REPEAL THE STATUTORY AUTHORITY UNDER NC GENERAL STATUTE 115C-431(C) THAT ALLOWS A LOCAL SCHOOL BOARD TO FILE SUIT AGAINST A COUNTY BOARD OF COMMISSIONERS OVER COUNTY APPROPRIATIONS FOR EDUCATION

BACKGROUND:

This is one of the top legislative priorities for the North Carolina Association of County Commissioners. This statutory authorization creates an adversarial relationship between the school boards and the boards of county commissioners and has cost taxpayers millions of dollars in legal fees and litigation expenses.

S531/H305 amends the statute that establishes the dispute resolution process for board of county commissioners and board of education. The proposed legislation was held up in the House during the long session and is eligible for the short session.

B. LOTTERY FUNDS FOR SCHOOL CONSTRUCTION

The biennium budget passed in 2017 created the Needs-Based Public-School Capital Fund, which provides targeted grants to counties in Tiers 1 and 2 using lottery funds. However, as a Tier 2 county, Cumberland County will not be eligible for grant funds until 2020-2021.

Representative Szoka stated that every penny that comes from the lottery goes into education. Representative Lucas stated all counties in the state feel like they are being treated unfairly regarding lottery funds. Representative Lucas stated there is still a need for the lottery.

5. HUMAN SERVICES

A. SOCIAL SERVICES

Continue support of county administered social services system as the Social Services Regional Supervision and Collaboration Working Group (established pursuant to Session Law 2017-41) holds ongoing meetings and explores a “vision” for county social services that may include a state administered system in the future.

BACKGROUND:

The County has concerns about moving to a full state-administered social services system but supports the state establishing regional offices to provide oversight and assistance to local county-administered agencies.

Brenda Jackson, Department of Social Services Director, reviewed the background information as recorded above.

B. MENTAL HEALTH

Support increased state funding for mental health services and support public managed care for the mental health, substance use and intellectually/developmentally disabled population.

BACKGROUND:

For FY2018 and FY2019, the General Assembly (Session Law 2017-206) has cut funding to the statewide mental health system by more than \$67 million in recurring funds and \$110 million in non-recurring funds.

For Alliance Behavioral Healthcare, of which Cumberland County is a member county, reductions have totaled more than \$17.7 million in recurring funds and \$17.8 million in non-recurring, for a total of more than \$35.5 million.

The LME/MCOs were required to utilize their fund balance reserves to maintain service levels to the uninsured/indigent population. As fund balance levels continue to dwindle, services to this most vulnerable segment of our population will be drastically reduced. Support for ceasing all further reductions to state appropriations for mental health funding is requested. Increased state appropriation to match service demands is also requested. Additionally, as Medicaid reform continues to be implemented in the state, support for publicly operated managed care organizations

is also requested. The LME/MCOs have unique experience and expertise in managing the needs of this special population in the State of North Carolina.

Representative Szoka stated Cumberland County's ask is very clear and is exactly the intent of the legislature. Duane Holder, Assistant County Manager, stated Cumberland County would like the delegation's support in continuing the publicly managed system.

C. PUBLIC HEALTH

Approve funding for Communicable Disease Nurse positions in county public health departments.

BACKGROUND:

The Cumberland County Department of Public Health supports the request from the N.C. Association of Local Health Directors in asking the General Assembly for \$8 million to be spread among all 100 counties to fund a Communicable Disease Nurse position. For Cumberland County, that would be about \$80,000. The increased funding to Local Public Health will help address rapidly emerging infectious disease (e.g. ZIKA, Hepatitis C, Escherichia coli (E. coli) 0121 or E. coli 026, Antibiotic Resistant Infections, Coronavirus (MERS), Meningitis, Drug Resistant Tuberculosis, Influenza, etc.) Considering recent national and international concern around communicable disease outbreaks, it is imperative that local health departments have a minimum set of resources available to perform local communicable disease control and community and public health surveillance activities, and to communicate clearly about disease threats within their jurisdictions.

Support for the basic core functions of local public health departments is waning, along with infrastructure funding, impacting local public health ability to accomplish mandated services. Local control of communicable diseases is a well-recognized core public health function here in N.C. and nationally, a role comparable to the public safety mission of law enforcement.

Mr. Holder reviewed the background information recorded above.

6. OTHER TOPICS

A. LIBRARIES

Increase State Aid to Libraries – The Cumberland County Public Library & Information Center Board of Trustees supports increased state funding for the important services provided through the library system.

Jody Risacher, Library Director, reviewed the information recorded above.

B. FUNDING FOR 911 SERVICES

Discuss the General Assembly's position on funding for 911 services and the responsibilities of counties to provide this service to municipalities and unincorporated areas. In 2015, there was proposed legislation to require counties to provide 911 services if requested by municipalities.

Commissioner Keefe and Tracy Jackson, Assistant County Manager, reviewed the information recorded above.

C. N.C. MILITARY HALL OF FAME

Seek update on the status of the N.C. Military Hall of Fame project and site selection. The N.C. Department of Military and Veterans Affairs recommended the N.C. Museum of Natural History. Consider endorsing Cumberland County as the location.

Commissioner Keefe reviewed the information recorded above. Commissioner Keefe asked the legislative delegation to consider Cumberland County for the N.C. Military Hall of Fame.

D. BOARD OF ELECTIONS

Rick Moorefield, County Attorney, stated Cumberland County does not have a valid Board of Elections right now because the Court of Appeals recent order upholding the new statute did not include a provision that counties with Board of Elections with two members could continue as a valid board. Mr. Moorefield stated Cumberland County took care of immediate needs but there are issues out there that will need to be taken care of before the primary election such as challenges to candidacy and approval of absentee ballot count. Mr. Moorefield stated Cumberland County requests the legislative delegation to keep abreast of the status of the court order and appointment process and consider legislation to keep existing Board of Elections with two members valid at least through this year if it became necessary. Representative Szoka stated more legislation was not the answer and that the County should submit the concerns to the executive branch.

E. MLK FREEWAY

Representative Lucas stated he had been working on a project to extend the MLK Freeway to the County line. Representative Lucas stated he was able to get \$200,000 for an overhead sign and if the County passed a resolution in support, he would get the resolution to the Department of Transportation.

There being no further matters of business, the special meeting adjourned at 10:02 a.m.

Respectfully submitted,

Kellie Beam
Deputy Clerk to the Board