

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JANUARY 12, 2021 – 1:00 PM
117 DICK STREET, 5TH FLOOR, ROOM 564
AGENDA SESSION REGULAR MEETING MINUTES

This meeting was conducted as a remote meeting under the N. C. Governor's State of Emergency Declaration. In compliance with the N. C. General Assembly's S.L. 2020-3, SB 704, this remote meeting was simultaneously streamed online with live audio and video and was available to the public and media live via the Cumberland County website (co.cumberland.nc.us), Youtube page (youtube.com/user/CumberlandCountyNC/videos) and on Fayetteville Cumberland Education Channel (FCE-TV) Spectrum Cable Channel 5.

PRESENT: Commissioner Charles Evans, Chairman
Commissioner Glenn Adams, Vice Chairman
Commissioner Jeannette Council
Commissioner Jimmy Keefe
Commissioner Larry Lancaster
Commissioner Toni Stewart
Amy Cannon, County Manager
Duane Holder, Deputy County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Angel Wright-Lanier, Assistant County Manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Amanda Bader, Solid Waste Director
Dee Taylor, Community Development Director
Rawls Howard, Planning and Inspections Director
Dr. Jennifer Green, Public Health Director
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk

ABSENT: Commissioner Michael Boose

Chairman Evans called the meeting to order.

1. APPROVAL OF AGENDA

MOTION: Commissioner Council moved to approve the agenda.
SECOND: Chairman Evans

When called on for their vote, Commissioners Lancaster, Council, Keefe, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

2. APPROVAL OF MINUTES

A. December 10, 2020 Agenda Session Regular Meeting Minutes

MOTION: Commissioner Lancaster moved to approve the December 10, 2020 Agenda Session regular meeting minutes.
SECOND: Commissioner Council

When called on for their vote, Commissioners Lancaster, Council, Keefe, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

3. PRESENTATIONS

A. COVID-19 Vaccination Clinics by Dr. Jennifer Green, Public Health Director

Ms. Cannon called on Dr. Jennifer Green, Cumberland County Public Health Director, who provided information about the COVID-19 vaccination clinics with the following PowerPoint presentation.

Organizational Structure

- Implemented use of FEMA Incident Command System (ICS)
- Common language and training
- Management by objectives
- Manageable span on control/Chain of command
- Incident Commanders
 - Emergency Management Director
 - Health Director
- Complete Incident Action Plans for each Point of Dispensing (POD)

- Provider Enrollment
 - Process of arranging and placing vaccine providers into the statewide CVMS system so that they may receive and administer the COVID-19 vaccine
 - Initially hospitals and local health departments (LHDs) only
 - Enrolling FQHCs began in late December
 - Other provider enrollment began January 11
 - Blasted faxed to local providers
- “Must administer COVID-19 vaccine in accordance with prioritization groups determined by appropriate public health authorities (i.e., CDC/ACIP, state/territorial health department...”

Provider Enrollment

- Signed by CEO (Health Director) and CMO (Medical Director)
- LHD and hospitals (and future providers) have separate provider agreements
 - Enrolled providers cannot “share” vaccine supply
 - May transfer vaccine with formal agreement and approval from NC DHHS
- Similar but separate standing orders for each enrolled provider signed by CMO
 - Vaccinators must operate under standing orders
- Must vaccinate regardless of residency
 - Vaccinated individuals as far away as South Carolina
- Follow storage requirements

Other Vaccination Partners

- Ft. Bragg Public Health, Veteran’s Affairs, and CVS/Walgreens Federal Partnership
 - NC DHHS dashboard does not reflect county level numbers from Ft. Bragg, CVS/Walgreens, or Veteran’s Affairs
- Federal partnership with CVS/Walgreens to vaccinate in long term care facilities and skilled nursing facilities
- CCDPH outreach to those not enrolled
 - Contacted 80+ unenrolled facilities
 - Attend phase 1a vaccination site
 - Vaccinate residents

Vaccine Supply

- NC DHHS allocations to LHDs and hospitals weekly
 - Approx. on Thursday for the following week
 - Holding second dose
- We cannot “order vaccine”
- Most Hospitals get Pfizer and LHDs get Pfizer and Moderna
 - Varies by week
 - 975-~2000 doses on a weekly basis

Technology/COVID Vaccine Management System

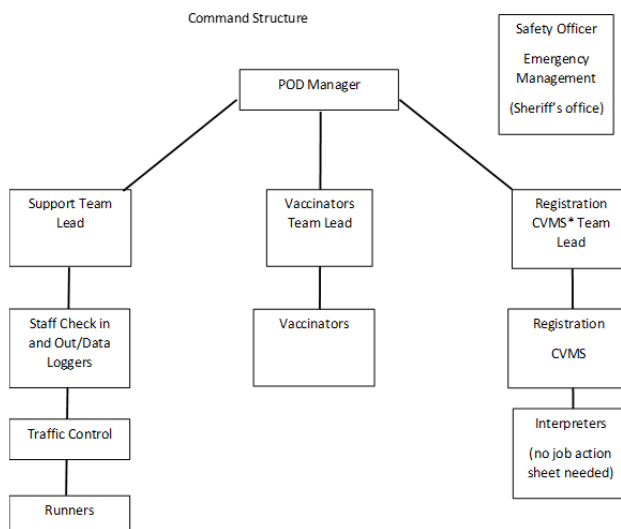
- Must utilize the COVID-19 Vaccine Management System (CVMS)

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- Register
- Administer doses
- Inventory
- Receive and ship
- No appointment capabilities in CVMS yet
- Self pre-registration not available yet, hospital/LHD must initiate process
 - Collect “bulk upload” spreadsheets for each agency (name and email address)
 - LHD/Hospital manually upload spreadsheets
 - Initiates individual to complete required health questionnaire and pre-register
- All users must have NCID and CVMS access
- Enter in real time, paper back up for CVMS challenges
- Collaborated with IT and EM for laptops and ipads for use among staff

Staffing

- Phase 1a - 40-50 individuals
- Phase 1b – 75+ individuals
- Agencies
 - Health Department Cumberland County Emergency Management
 - Cumberland County PIO
 - Cumberland County IT
 - Nursing Schools
 - FTCC, FSU, Methodist
 - Sherriff's Office
 - CERT volunteers
 - Crown Complex



Volunteers

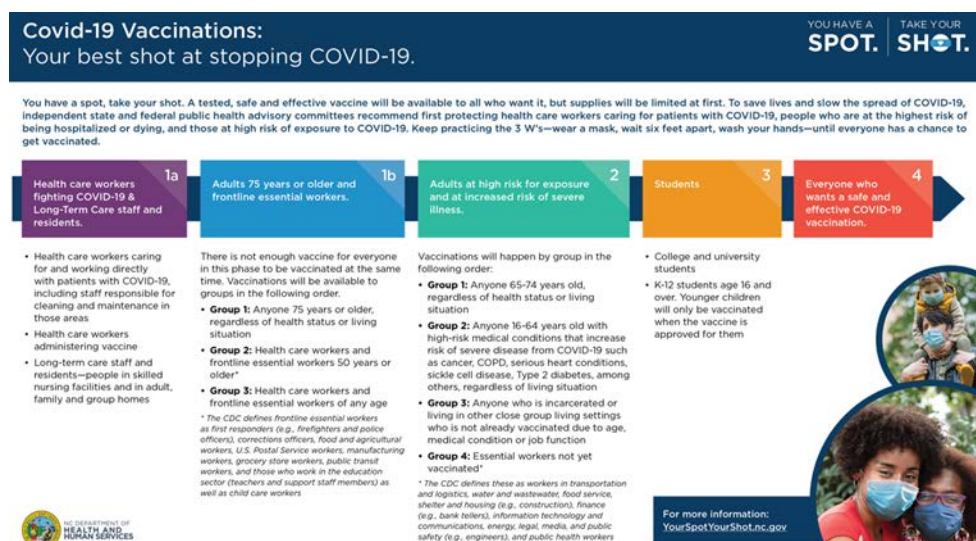
- Registered FTCC and FSU nursing students and faculty as CVMS users
 - FTCC began week of December 28
 - FSU will begin week of January 11
- Web EOC request
 - National Guard Assistance – 10 individuals
 - NC DHHS assistance – 30+ individuals
- Additional volunteers from
 - Team Rubicon
 - Civic Air Patrol
 - CERT team
- Exploring collaboration with EMS
 - Cannot operate without CCDPH on site
 - Not included in our provider agreement
 - Standing orders
- Must comply with CCDPH standing orders, medical liability insurance, volunteers policy, and HIPAA, current licensure
- Launching volunteer website

Other Health Department Services

- Contact tracing and case investigation
 - 30+ staff
 - Carolina Tracing Collaborative (CCNC)
 - Temporary staff
 - Volunteers
- Maintain mandated services
- Prioritize
 - STD, TB or other communicable disease exam, immunization or school health assessment for school-aged children, critical prenatal visits, etc.

Timeline

- Based on estimated vaccine allocations, NCDHHS anticipates the following timeline. These timeframes are estimates only and subject to change based on the vaccine supply North Carolina actually receives from the federal government and local supply on hand.
- January 6, 2021 – Open to Phase 1b, Group 1 and continue 1a
 - Some vaccine providers may begin as early as January 6th, but expect most vaccine providers will begin on January 11th
- January 20, 2021 – Open to Phase 1b, Group 2 and continue all previous groups and 1a
- February 8, 2021 – Open to Phase 1b, Group 3 and continue all previous groups and 1a



Communications

- PIO developed website: <https://co.cumberland.nc.us/departments/public-health-group/public-health/covid-19-vaccine>
- Dedicated phone line and email address for vaccine updates
- Radio/television interviews for vaccine updates
 - ABC 11, WRAL, WIDU, CBS 17, WFNC, etc.
- Community presentations for civic groups and phase 1a and phase 1b agencies
- Press releases and social media updates
- CFV and CCDPH vaccination information is shared on both websites
- NC DHHS
 - You Have a Spot Take Your Shot
 - Vaccine metrics on NC DHHS dashboard
 - Check in in CFV staff – approximately 2-3X daily

Phase 1a

- LHD and hospital collected spreadsheets from Phase 1a agencies to pre-register
 - Collaborated to avoid duplication
 - Can get vaccinated in either location regardless of who uploads
 - LHD pre-registered more than 200 agencies/departments
- Pre-registered more individuals than we had vaccine
- Received and inventoried vaccine on Dec 22
- Vaccinated Health Department staff on December 23
- Closed points of dispensing sites at Crown Complex for Phase 1a

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- December 29, 30, 31 and Jan 5 and 6
- Most were pre-registered
- Assisted hospital with overflow

Phase 1b, Group 1

- Age 75+ , regardless of health status
- Initially planned for launch week of Jan 11
- Accommodated hospital overflow on Jan 7
- Began Jan 8 to align with the CFV hospital
- Will increase staff for week of Jan 11
 - Additional vaccinators on site
- Tuesdays, Wednesdays, and Friday
- Will begin some Saturday clinics January 23
- Allows us to adjust and reset between vaccination clinics

Phase 1b, Groups 2 and 3

- Meetings with essential employers in Phase
 - Public/private schools
 - First responders/public transit
 - Daycares
 - Food and agriculture
 - Next: grocery stores
- Review of employees who are in phase 1b
- Overview of how pre-register your employees in phase 1b
- Share plan for when, where, and how your employees will receive their vaccinations

Drive Thru Site Plan

- First come, first served basis
- Follow the phases as required
- Registration outside
- Vaccination inside
- Patient remains in the vehicle
- Walk-in option available for large vehicles
- Waiting area for observation

Drive Thru/Site Selection

- Allows for social distancing/avoid potential super spreader events
- Avoids lines outdoors
- Allows operation in varying weather conditions (indoor/outdoor)
- Allows us to adjust based on supply
- Avoids wasted doses due to missed appointments
 - Limits “All Calls”
- Accommodates long lines
- On the FAST bus route
- Future considerations for appointments

Dr. Green concluded her presentation and responded to questions that followed.

4. CONSIDERATION OF AGENDA ITEMS

A. Request for Proposals (RFP) for Consultant Services to Address Homelessness in Cumberland County

BACKGROUND

As the Board is aware, Chairman Evans identified his priorities for the year during the December 7, 2020 Special Meeting of the Board. He expressed a desire to establish a plan to identify and assist the homeless in our community “with a one-stop center designed to help members of our homeless community locate and access resources throughout Cumberland County.”

Since that time, the Chairman has held discussions with other commissioners, Fayetteville City Council leadership and management, and County management and staff to determine the best path

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forward toward the development of services to address these vulnerable citizens in our community. Based upon those discussions and the current state of affairs, the Board is asked to consider the issuance of a Request for Proposals (RFP) for Consultant Services to address homeless services in the County.

The attached RFP seeks to engage the services of a subject matter expert who will perform the following activities:

- Provide a model continuum of homeless services, resources and best practices for a community of similar size and demographics of our community,
- Assess the current continuum of homeless services and resources in our community,
- Identify needs and gaps in the continuum of homeless services and resources in our community,
- Provide a recommended plan of implementation of identified deficits in homeless services and resources.

Funding for this engagement will be made available through existing budgeted Community Development funds. Monthly milestones, recommendations and progress reports will be presented to the Board in order to keep the Board abreast of the execution of contracted services.

RECOMMENDATION / PROPOSED ACTION

Staff recommends and requests that the following item be placed on the January 19, 2021 Board of Commissioners agenda as a consent item:

Approve the issuance of a Request for Proposals (RFP) for Consultant Services to Address Homelessness in Cumberland County

Duane Holder, Deputy County Manager, presented the background information recorded above. Mr. Holder stated this item was requested by Chairman Evans because homelessness continues to be a challenge for many citizens and consequently creates a negative impact on many county services. Mr. Holder stated staff agree with Chairman Evan's recommendation that the most prudent next step in this effort is to engage the services of a subject matter expert or consultant to provide a plan for homeless services through the issuance of an RFP. Mr. Holder stated the three phases of the consultant's scope of work are outlined in the RFP and Community Development would be the administering county department and has funds available to fund the contract. Mr. Holder stated given the scope of the project, staff estimate the contract could range up to \$30,000. Mr. Holder stated if the Board approves, the date of issuance for the RFP would be January 19, 2021, proposals would be due February 19, 2021, evaluation of proposals would take place during the last week of February and consultant services would be expected to begin in March. Mr. Holder stated the three phases would be expected to occur between the months of April and June.

Commissioner Keefe asked whether there would be any conversation with the consultant about the City of Fayetteville's involvement or would the county be operating on its own. Mr. Holder stated the county would be operating the center from an administrative standpoint, but the county would collaborate with the City. Mr. Holder stated the two Community Developments work closely together and a lot of the data already gathered includes both city and county information.

MOTION: Commissioner Keefe moved to approve the issuance of a Request for Proposals (RFP) for Consultant Services to Address Homelessness in Cumberland County, approve \$30,000 for a consultant, and forward to the January 19, 2021 regular meeting as a consent agenda item.

SECOND: Commissioner Council

When called on for their vote, Commissioners Lancaster, Keefe, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0) (Commissioner Council left the meeting room without having been excused before the vote was taken.)

- B. Consideration of Joint Resolution of the Board of Commissioners' and the City Council Requesting Cumberland County's Delegates to the General Assembly to Sponsor a Local Bill to Amend Session Law 1991-413, Authorizing a Prepared Food and Beverage Tax, and to Modify the Distribution of Proceeds from the Sale of Alcoholic Beverages in Cumberland County Pursuant to G.S. 18b-805(E)

BACKGROUND

In preparation of the Board of Commissioner’s meeting with the Cumberland County Delegation to the General Assembly, Chairman Evans called a meeting on December 21, 2020 with representatives from the Fayetteville City Council. In attendance were Chairman Evans, Vice Chairman Adams, Commissioner Keefe, Mayor Colvin, and Mayor Pro Tem Jensen. This meeting was called to discuss mutual support of legislation to remove the sunset provision and clarify that food and beverage proceeds may expand beyond the footprint of the Crown Coliseum Complex. The discussion on December 21 centered around the County sharing unrestricted alcoholic beverage revenue (ABC) with the City in exchange for the City’s support of Food and Beverage legislative changes through a joint resolution. There have been numerous scenarios shared by both entities, with the City starting with a request of 63% of unrestricted ABC revenues.

Another meeting was held on Friday, January 8, 2021 to further discuss an option that both the Mayor and Chairman could present to their respective elected bodies for consideration. The following was the consensus of that meeting:

Share Unrestricted ABC Revenue

County	47.5%
City of Fayetteville	47.5%
Town of Hope Mills	3%
Town of Spring Lake	2%

Revenue Sharing to be Phased in Over a Four-Year Period:

Year 1	30%
Year 2	55%
Year 3	90%
Year 4	100%

The proposed allocation would yield the following amounts per year:

	Prior Year FY2020 Actual	Current Year FY2021 Projected	Year 1 FY2022 Projected	Year 2 FY2023 Projected	Year 3 FY2024 Projected	Year 4 FY2025 Projected
Cumberland County	\$3,837,105	\$4,220,816	\$3,911,641	\$3,632,487	\$2,963,445	\$2,935,356
Fayetteville	0	0	661,613	1,334,253	2,401,655	2,935,356
Town of Hope Mills	0	0	41,786	84,269	151,683	185,391
Town of Spring Lake	0	0	27,857	56,179	101,122	123,594

RECOMMENDATION / PROPOSED ACTION

Consider the proposal to share unrestricted ABC revenues with the City of Fayetteville, Towns of Hope Mills and Spring Lake in exchange for the City’s support of legislation removing the sunset provision and clarifying that Food and Beverage Tax proceeds may be utilized beyond the footprint of the Crown Coliseum.

JOINT RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS AND THE FAYETTEVILLE CITY COUNCIL REQUESTING CUMBERLAND COUNTY’S DELEGATES TO THE GENERAL ASSEMBLY TO SPONSOR AND SUPPORT A LOCAL BILL TO AMEND SESSION LAW 1993-413, AUTHORIZING A PREPARED FOOD AND

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**BEVERAGE TAX, AND TO MODIFY THE DISTRIBUTION OF PROCEEDS FROM THE
SALE OF ALCOHOLIC BEVERAGES IN CUMBERLAND COUNTY PURSUANT TO
G. S. § 18B-805(e)**

Whereas, Session Law 1993-413 mandates that the proceeds derived from the one percent (1%) tax on prepared food and beverages sold within Cumberland County be transferred to the Cumberland County Civic Center Commission exclusively for debt service and any other costs of acquiring, constructing, maintaining, operating, marketing and promoting the arena or expanded arena facilities owned by Cumberland County and located in the City of Fayetteville; and

Whereas, in addition to the arena, the arena facilities consist of the auditorium and theater, constructed prior to the arena, and the Crown Coliseum, constructed after the arena, and collectively known as the Crown Complex; and

Whereas, these aging facilities require significant, on-going maintenance and capital improvements to serve the purposes for which they were built, with the auditorium and theater having passed the useful lives for their intended purposes; and

Whereas, these arts and entertainment venues operate at a loss and require the subsidy provided by the prepared food and beverage tax to remain in service; and

Whereas, these public arts and entertainment venues improve the quality of life and are significant to the economy and growth of the City of Fayetteville as a regional commercial center; and

Whereas, Session Law 1993-413 contains a sunset provision which requires the Board of Commissioners to repeal the tax when the debt on the Crown Complex is extinguished, which shall occur in 2026; and

Whereas, the Board of Commissioners has engaged a consultant to evaluate the market and residents' preferences for a performing arts venue to replace the obsolete theater to include a recommendation on where it should be sited within the County to best serve its purposes; and

Whereas, without the continued funding provided by the prepared food and beverage tax, it is impractical for the County to continue planning for a performing arts venue; and

Whereas, the Cumberland County Alcoholic Beverage Control Board is solely a County Board and the distribution of the remaining gross receipts pursuant to G. S. § 18B-805(e) is made solely to Cumberland County; and

Whereas, the Fayetteville City Council seeks that a portion of the distribution of the remaining gross receipts from the sale of alcoholic beverages within Cumberland County pursuant to G. S. § 18B- 805(e) be made to the City of Fayetteville in accordance with the distribution formula set forth herein; and

Whereas, the Board of Commissioners consents to a portion of the distribution of the remaining gross receipts from the sale of alcoholic beverages within Cumberland County pursuant to G. S. § 18B-805(e) being made to the City of Fayetteville in accordance with the distribution formula set forth herein as consideration for, and conditioned upon, the Fayetteville City Council's continued support for the amendments to Session Law 1993-413 requested herein.

THEREFORE BE IT RESOLVED, that the Cumberland County Board of Commissioners and the Fayetteville City Council jointly requests each of the County's Senators and Representatives in the General Assembly to sponsor and support a local bill amending Session Law 1993-413 to remove the sunset provision and clarify that the prepared food and beverage tax proceeds may be used to finance and support arts and entertainment venues located anywhere in the County in the future to expand or replace these existing arena facilities commonly known as the Crown Complex, and also to modify the statutory distribution of the remaining gross proceeds from the sale of alcoholic beverages within Cumberland County pursuant to G. S. § 18B-805(e) to include a distribution to the City of Fayetteville in accordance with the proposed draft language attached hereto.

BE IT FURTHER RESOLVED that the local bill requested herein shall be consistent with the proposed draft language attached hereto.

Adopted this ____ day of _____, 2021.

ATTACHMENT TO JOINT RESOLUTION OF THE CUMBERLAND COUNTY
BOARD OF COMMISSIONERS
AND THE FAYETTEVILLE CITY COUNCIL

PROPOSED DRAFT LANGUAGE FOR A LOCAL ACT TO AMEND
SESSION LAW 1993-413 AND MODIFY THE DISTRIBUTION OF
PROCEEDS FROM THE SALE OF ALCOHOLIC BEVERAGES IN
CUMBERLAND COUNTY PURSUANT TO G. S. § 18B-805(e)

Amend S.L. 1993-413, Senate Bill 923, as follows:

Amend Section 8 by expanding the use of the proceeds to include new arts or entertainment facilities which are not affiliated with the existing facilities commonly known as the Crown Complex.

Sec. 8. Use of Proceeds. – The county shall transfer the proceeds of the prepared food and beverage tax to the Cumberland County Civic Center Commission, an agency of Cumberland County. The proceeds transferred to the Cumberland County Civic Center Commission shall be used (i) to provide for, when due, payments for the current fiscal year with respect to any financing for new arena facilities or for the expansion of the existing arena facilities, which may include off-street parking for use in conjunction with the facilities and (ii) to pay other costs of acquiring, constructing, maintaining, operating, marketing, and promoting the new arena or expanded arena facilities. The Cumberland County Civic Center Commission is authorized to acquire, construct, maintain, operate, market and promote any such arena, civic center, arts or entertainment facility that is approved by the Board of County Commissioners, whether or not such facility is affiliated with the existing civic center commonly known as the Crown Complex.

The Commission may contract with any person, agency, association, or nonprofit corporation to carry out the activities and programs for which the tax proceeds may be expended. All contracts entered into pursuant to this subsection shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

Amend Section 11 by removing the repeal requirement.

Sec. 11. Repeal. – A tax levied under this act may be repealed by a resolution adopted by the Cumberland County Board of Commissioners. ~~The Cumberland County Board of Commissioners shall repeal the tax when the new or expanded arena facilities for which the tax was imposed are constructed and any debt for those facilities has been paid.~~ Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that has attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Modify the distribution of the remaining gross proceeds of the sale of alcoholic beverages within Cumberland County pursuant to G.S. § 18B-805(e) as follows:

Session Law 1965-892 is hereby repealed.

The county shall divide the remaining gross proceeds of the sale of alcoholic beverages within Cumberland County pursuant to G.S. § 18B-805(e) among the county, the City of Fayetteville, the Town of Hope Mills and the Town of Spring Lake by distributing forty-seven and one-half percent (47.5%) to the City of Fayetteville, three percent (3%) to the Town of Hope Mills, and two percent (2%) to the Town of Spring Lake with the full distribution percentage to be phased in over four (4) fiscal years for remaining gross proceeds of the sale

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of alcoholic beverages after June 30, 2021. The distribution to these municipalities shall be thirty percent (30%) of the distribution percentage of each municipality being distributed in fiscal year 2022, fifty-five percent (55%) of the distribution percentage of each municipality being distributed in fiscal year 2023, ninety percent (90%) of the distribution percentage of each municipality being distributed in fiscal year 2024, and one-hundred percent (100%) of the distribution percentage of each municipality being distributed in fiscal year 2025 and each fiscal year thereafter.

Ms. Cannon referenced the background information recorded above, the joint resolution to local delegates to the General Assembly to sponsor and support a local bill to amend Session Law 1993-413, and the attachment to the joint resolution with proposed draft language for a local act to amend Session Law 1993-413.

Commissioner Keefe asked whether there had been conversation about the structure of the Tourism Development Authority because it was not mentioned in any materials related to this item. Ms. Cannon stated Item 4.C. on the agenda for this meeting, 2021 State Legislative Agenda Items, includes the local occupancy tax and changing the make-up of the TDA. Commissioner Adams stated this item is intended to get straight to the point and only address the Food and Beverage Tax and proceeds from the sale of alcoholic beverages. Commissioner Keefe stated he would support this item but wanted to be sure the TDA membership would be addressed.

MOTION: Commissioner Adams moved to approve the Joint Resolution of the Cumberland County Board of Commissioners and the Fayetteville City Council Requesting Cumberland County's Delegates to the General Assembly to Sponsor and Support a Local Bill to Amend Session Law 1993-413 Authorizing a Prepared Food and Beverage Tax and to Modify the Distribution of Proceeds from the Sale of Alcoholic Beverages in Cumberland County Pursuant to G.S. § 18B-805(e), approve the proposed draft language for a Local Act to amend Session Law 1993-413 and modify the distribution of proceeds from the sale of alcoholic beverages in Cumberland County pursuant to G. S. § 18B-805(e) and forward to the January 19, 2021 regular meeting as a consent agenda item.

SECOND: Chairman Evans

When called on for their vote, Commissioners Lancaster, Keefe, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0) (Commissioner Council was still absent from the meeting)

C. 2021 State Legislative Agenda Items

BACKGROUND

The Board of Commissioners will meet on Jan. 21, 2021, with the members of Cumberland County's legislative delegation to the N.C. General Assembly. Commissioners submitted proposed goals for the state legislative agenda for the full board's consideration. The approved goals will be presented to the legislators during the special meeting between the delegation and the county commissioners.

As additional background information, I have attached the proposed goals drafted by County department heads for submission to the North Carolina Association of County Commissioners as part of the state organization's legislative goal-setting process.

RECOMMENDATION / PROPOSED ACTION

Consider the proposed goals for the County's State Legislative Agenda to be discussed with the Cumberland County General Assembly delegation.

FY2022 Proposed State Legislative Agenda

Proposed goals submitted by the Board of Commissioners to be presented to the Cumberland County General Assembly Delegation on Jan. 21 during the special meeting between the legislative delegation and the county commissioners.

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Goal #1 - Water quality

Seek legislation to improve water quality in North Carolina, especially in Cumberland County. Seek state participation in Gray's Creek water project to include funding. Requesting funding and support for extending water lines in contaminated areas.

Goal #2 – Tax and Finance

- Food and Beverage Tax. Amend the Prepared Food and Beverage Tax to repeal sunset provision and expand the use beyond the Crown Complex. Include a resolution to distribute a portion of ABC funds to the City of Fayetteville and other municipalities.
- Local Occupancy Tax: Amend local occupancy tax legislation to allow Cumberland County to change the make-up of the Tourism Development Board (TDA) to allow the County to operate under House Finance Committee guidelines for Local Occupancy Tax and Board membership.

Goal #3 - Infrastructure

Seek legislation to expand infrastructure and broadband capability to unserved residents of Cumberland County.

Goal #4 - School Funding

- Support legislation to repeal the statutory authority that allows school boards to sue boards of commissioners over county appropriations.
- Increase lottery funding and/or additional revenues to equitably address public school capital school projects.

Goal #5 - Grants and Other Opportunities

- Identify and explore grant opportunities from the state.
- Identify and explore economic development and broadband services opportunities for counties designated as Tier I.

Goal #6

Oppose unfunded mandates and shifts of state responsibilities to counties.

Sally Shutt, Assistant County Manager, presented the background information recorded above and proposed goals submitted by the Board of Commissioners to be presented to the local delegates to the General Assembly on January 21, 2021 during a special meeting.

Commissioner Keefe asked what the House Finance Committee guidelines were for TDA membership because Cumberland County's TDA membership is exclusive and the goal is to allow the TDA membership to be more inclusive, but still involved in tourism. Commissioner Keefe stated the TDA has a \$3 million budget and the TDA's membership has basically been the same ten members rotating on and off because of the wording of the current legislation. Commissioner Keefe stated he wants to see commissioners have more flexibility as it relates to the TDA membership in accordance with House Finance Committee guidelines and he wants to see what other counties are doing consistent with those guidelines.

Ms. Shutt stated an announcement would be made later in the day from the Fayetteville-Cumberland County Economic Development Commission regarding broadband. Commissioner Keefe asked whether that would give broadband opportunities to small areas. Commissioner Adams stated information he received from Mr. Van Geons with the Fayetteville-Cumberland County Economic Development Commission did not state the complete unincorporated area of Cumberland County but instead talked about all the municipalities and a great portion of the unincorporated area.

Commissioner Keefe stated historically after meetings with the local delegation, no one has pushed any of the county's legislative agenda items. Commissioner Keefe stated he would like to know

from the local delegation what their goals are, what they plan on sponsoring moving forward and whether there are any opportunities for the county as they move forward. Ms. Shutt stated there is an opportunity on the meeting agenda for the local delegation to provide comments and Mr. Richardson, who is chairman of the local delegation, has asked Dr. Green to provide information about what the county's needs are related to COVID-19. Ms. Shutt stated the section on the agenda for comments would also provide an opportunity to conduct a roundtable discussion with the local delegation.

Commissioner Adams stated he was at a meeting last week during which he mentioned that the county's Health Department needed more money and Representative Szoka said what he always says which is to tell him what it is that is needed and the amount needed. Commissioner Adams stated the proposed goals are broad and the feedback from the delegation will be that they are broad. Ms. Shutt stated the agenda packet for the meeting with the local delegation will provide more detail and specific asks. Commissioner Adams stated although he trusts staff, he feels the lack of specifics is one reason the county does not get anything. Commissioner Keefe concurred.

MOTION: Commissioner Keefe moved to approve the proposed goals for the county's state legislative agenda to be discussed with the Cumberland County General Assembly delegation and forward to the January 19, 2021 regular meeting as a consent agenda item.

SECOND: Commissioner Council

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

Commissioner Adams asked if commissioners could receive the amounts before the meeting. Ms. Shutt stated a booklet will be provided to commissioners for review and the local delegation has also requested information before the January 21, 2021 meeting.

D. Request to Add to the Chairman's Commissioner-Liaison Appointments

BACKGROUND

At its November 18, 2019 regular meeting, the Board of Commissioners approved a process in which the incoming chairman would make commissioner-liaison appointment to only those boards, committees and agencies that specifically require a County Commissioner as part of their membership. The following boards, committees and agencies have established a County Commissioner position either through their guidelines, by-laws, Interlocal Agreement or Memorandum of Understanding and have commissioner-liaisons appointed by the chairman.

- Cumberland County Action Program (Commissioners may designate representatives)
- Cumberland County Local Emergency Planning Committee
- Mid-Carolina Council of Governments (Full Council)
- Transportation Advisory Committee (Subject to N.C. State Ethics Commission Requirements)
- Homeless Committee
- Fayetteville Cumberland County Economic Development Corporation
- Fayetteville-Cumberland Liaison Committee (one Commissioner other than the Chairman and Vice Chairman)

Chairman Evans would like the Board of Commissioners to consider adding the Fayetteville-Cumberland Parks and Recreation Advisory Commission, the Public Works Commission, and the Civic Center Commission to the chairman's liaison appointments.

RECOMMENDATION / PROPOSED ACTION

Consider Chairman Evans' request to add the Fayetteville-Cumberland Parks and Recreation Advisory Commission, the Public Works Commission, and the Civic Center Commission to the chairman's liaison appointments and if approved, forward to the January 19, 2021 regular meeting as a consent agenda item.

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Ms. Cannon presented the background information recorded above. Chairman Evans stated he believes it is to the county's advantage to add commissioner-liaisons to these boards, particularly as it relates to water for Gray's Creek. Commissioner Adams stated the appointment of a commissioner-liaison to the ABC Board is needed. Commissioner Adams also stated commissioners needed to attend the meetings if they are appointed as commissioner-liaisons.

MOTION: Commissioner Keefe moved to add the Fayetteville-Cumberland Parks and Recreation Advisory Commission, the Public Works Commission, the Civic Center Commission and the ABC Board to the chairman's liaison appointments and forward to the January 19, 2021 regular meeting.

SECOND: Commissioner Lancaster

When called on for their vote, Commissioners Keefe, Evans, Adams, Council and Stewart voted in favor.

When called on for his vote, Commissioner Lancaster voted in opposition.

VOTE: PASSED (5-1)

Due to the lack of a unanimous vote, this item will go forward to the January 21, 2021 regular meeting as an item of business.

E. Legal Opinion for an Exception to the Conflict of Interest Rule: C. McLamb – Rental Rehabilitation Program

BACKGROUND

Kingdom Community Development Corporation (KCDC) was approved for a Rental Rehabilitation Program (RRP) loan in May 2010 for the unit located at 3535 Spring Garden Drive, Hope Mills. The program requires that KCDC rent to a low to moderate income tenant for at least three years and thereafter until the loan is paid in full. According to our records, KCDC still owes a balance on the loan.

On November 5, 2020, Chavaungh McLamb, Administrative Coordinator II with Community Development, submitted an application to reside at the unit owned by KCDC and KCDC has determined Ms. McLamb an eligible tenant.

Ms. McLamb was hired as Administrative Coordinator II on December 8, 2019 so she was not involved in the application / approval process of KCDC's application for the loan. She had no decision-making authority, direct influence or duties related to the administration of the RRP loan at the time KCDC applied for the loan.

Attached is a legal opinion provided by the County Attorney's Office stating that granting assistance to Ms. McLamb, the applicant, would not result in a conflict of interest in violation of State law or County ordinance, provided that: 1) this information has been disclosed on the record; 2) Ms. McLamb does not engage in deliberations concerning this matter; 3) Ms. McLamb must disqualify herself from acting on the matter; and 4)

Ms. McLamb shall not communicate about such matter with any person who will participate in the action being taken on such matter.

RECOMMENDATION / PROPOSED ACTION

This issue is being presented to the Board as matter of disclosure for public record. No action is needed.

Dee Taylor, Community Development Director, presented the background information recorded above and referenced the memorandum with the legal opinion from the Assistant County Attorney

as contained in the materials for this item. Ms. Taylor stated a letter will be submitted to HUD regarding the conflict-of-interest provision.

Commissioner Adams stated although he knows the county is working on this, he finds it disturbing that a county employee working 40-hours per week is an eligible tenant. Commissioner Adams stated county employees should be able to meet their basic needs without having to get a second job. Commissioner Adams stated the Board cannot tell the community to provide certain wages if the county itself does not do so. Commissioner Adams stated citizens need to know the county is in the process of addressing this.

F. Award of Ann Street Landfill Scale House and Scales Project

BACKGROUND

The Ann Street Landfill Scale House and Scales project was bid on Thursday, October 1, 2020. The lowest, responsive bid was submitted by Harrod and Associates Constructors, Inc. in the amount of \$1,009,916.00. The lowest bid submitted by Barry Building Group in the amount of \$1,008,000.00 was rejected because the Base Bid Schedule was not completely filled out, including a Unit Price and Extended Total Price for all items. The lowest, responsive bid exceeded the County's budget of \$1,000,000.00. The County entered into negotiations with Harrod and Associates Constructors, Inc. in accordance with NCGS 143-129. The negotiated cost of the contract is \$985,022.00 including 5% contingency.

RECOMMENDATION / PROPOSED ACTION

Solid Waste Director and County Management recommend that the proposed actions be place on the January 19, 2021 Board of Commissioner's agenda as a consent item:

Accept the bid for the Ann Street Landfill Scale House and Scales project and award a contract to Harrod and Associates Constructors, Inc. in the amount of \$985,022.00 inclusive of 5% for contingency purposes and authorize the County Manager to approve change orders for the project as recommended by the project engineer and Solid Waste Director.

Amanda Bader, Solid Waste Director, presented the background information recorded above. Commissioner Adams asked whether change orders would bring the amount above \$1 million. Ms. Cannon stated the \$985,022 amount includes a 5% contingency to cover any potential change orders.

MOTION: Commissioner Council moved to accept the bid for the Ann Street Landfill Scale House and scales project and award a contract to Harrod and Associates Constructors, Inc. in the amount of \$985,022.00 inclusive of 5% for contingency purposes, authorize the County Manager to approve change orders for the project as recommended by the project engineer and Solid Waste Director and forward to the January 19, 2021 meeting as a consent agenda item.

SECOND: Commissioner Adams

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

G. Construction Contract with Engineered Construction Company for 500 Executive Place

BACKGROUND

On January 4, 2021, The Board of Commissioners approved the Construction Bid Tab and Award for 500 Executive Place. A contract has been created and reviewed by County Legal who finds it to be legally sufficient.

Attached to this memo is a contract with Engineered Construction Company for a total of \$5,963,231 consisting of a base bid of \$5,778,431, Alternate #1 for \$184,800, and Alternate #2

with no change. Funding is available in the Capital Projects Fund and is sufficient to cover the costs proposed above.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the following and requests the actions below be forwarded to the Board of Commissioners as a Consent Agenda item at their January 19, 2021 regular meeting:

1. Approve the attached construction contract and attachments with the Engineered Construction Company
2. Authorize the County Manager to approve change orders, with a report to the 9-1-1 Committee, for the project as recommended by the County Engineer.

Tracy Jackson, Assistant County Manager, presented the background information and recommendation/proposed action recorded above.

MOTION: Commissioner Adams moved to approve the construction contract with the Engineered Construction Company, authorize the County Manager to approve change orders with a report to the 9-1-1 Committee for the project as recommended by the County Engineer and forward to the January 19, 2021 meeting as a consent agenda item.

SECOND: Commissioner Council

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

H. Limited Obligation Bonds (LOBs) Series 2021 Final Approving Resolution and Budget Ordinance Amendments #B210076 and #B210088

BACKGROUND

Limited Obligation Bonds (LOBs) are being issued to fund the Emergency Operations Center (EOC) capital project and the FTCC Fire Training Center project. At the December 21, 2020 Board of Commissioners' meeting, a resolution was approved which authorized the filing of an application to the Local Government Commission (LGC). The resolution also documented certain findings that are required for the transaction and a public hearing was held.

Board of Commissioner approval is now being requested through the attached resolution which in summary authorizes County staff to execute documents related to the LOBs debt issuance. The LGC will consider the debt issuance during their February 2, 2021 meeting. The bond pricing is scheduled for February 10, 2021 with closing scheduled for February 24, 2021. Current market conditions appear to be in the County's favor as future debt payments are projected to be much lower than projected as shown on the latest version of the capital planning model.

Budget amendments are required for both projects. The County has committed to funding an amount not to exceed \$10,000,000 on construction of the FTCC Fire Training Center. Budget Ordinance Amendment #B210076 authorizes that within the Capital Investment Fund, with debt proceeds as the revenue source.

The EOC capital project budget ordinance has a current budget total of \$16,150,000. Capital Budget Ordinance amendment #B210088 is required to recognize the \$1,000,000 appropriation of the 911 fund balance contribution; add an estimated amount for financing costs; transfer funds totaling \$5,801,818 back to the capital investment fund; and, update the expenditure amounts to reflect estimated amounts as provided by AECOM to the EOC Committee on October 22, 2020. A detailed slide will be shown during the meeting which will illustrate the revisions required for this budget ordinance amendment.

RECOMMENDATION / PROPOSED ACTION

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

Management and staff recommend placing the following items on the January 19, 2021 Board of Commissioners' meeting agenda as an item of business:

- Adoption of the attached Final Approving Resolution.
- Approval of Budget Ordinance Amendment #B210076 which authorizes the \$10,000,000 funding contribution to be made to FTCC on a reimbursement basis for construction costs incurred on the FTCC Fire Training Project. The funding source is debt proceeds, established within the Capital Investment Fund.
- Approval of Capital Project Budget Ordinance Amendment #B210088 which appropriates \$1,000,000 from the E911 Fund Balance to the EOC Capital Project fund, transfers \$5.8 million back to the Capital Investment fund, allocates costs for the debt financing, and aligns expenditures with the contracted construction costs and other estimated costs as provided by AECOM on October 22, 2020.

RESOLUTION CONCERNING FINAL APPROVAL OF THE
ISSUANCE OF LIMITED OBLIGATION BONDS TO FINANCE AN
EMERGENCY OPERATIONS CENTER AND A FIRE TRAINING
FACILITY AND AUTHORIZING THE EXECUTION AND
DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the County of Cumberland, North Carolina (the "County") proposes to finance the acquisition, construction and equipping of a building for use as an emergency operations center and other County functions (the "Emergency Operations Center") and a fire training facility to be operated by Fayetteville Technical Community College (the "FTCC Fire Training Center," and, together with the Emergency Operations Center, the "Project");

WHEREAS, to accomplish such financing, the County proposes to issue its Limited Obligation Bonds, Series 2021 (the "2021 Bonds") pursuant to a Trust Agreement dated as of February 1, 2021 (the "Trust Agreement") and a First Supplemental Trust Agreement dated as of February 1, 2021 (the "First Supplemental Trust Agreement"), between the County and the Trustee, with the Trust Agreement and the First Supplemental Trust Agreement being agreements authorized under Section 160A-20 of the North Carolina General Statutes ("Section 160A-20") and having payments thereon by the County subject to appropriation; and

WHEREAS, in connection with the issuance of the 2021 Bonds, the County will execute a Deed of Trust dated as of February 1, 2021 (the "Deed of Trust"), granting a lien of record on the site of the new Emergency Operations Center; and

WHEREAS, the 2021 Bonds will be sold to PNC Capital Markets LLC, as the Underwriter (the "Underwriter") pursuant to a Bond Purchase Agreement to be dated the date of sale of the 2021 Bonds, between the Underwriter and the County (the "Bond Purchase Agreement"); and

WHEREAS, there have been presented to the Board forms of the following documents (collectively, the "Documents") which the County proposes to use in connection with the issuance of the 2021 Bonds:

1. Trust Agreement;
2. First Supplemental Trust Agreement, with the form of the 2021 Bonds attached thereto;
3. Deed of Trust;
4. Bond Purchase Agreement; and
5. Preliminary Official Statement relating to the offering and sale of the 2021 Bonds (the "Preliminary Official Statement");

WHEREAS, the Board desires to approve the Documents and to authorize other actions in connection therewith; and

WHEREAS, the County at its meeting on December 21, 2021, made certain findings with respect to the issuance of the 2021 Bonds and the financing of the Project; and

WHEREAS, financings pursuant to Section 160A-20 must be approved by the North Carolina Local Government Commission (the "LGC") and it is expected that the LGC will consider the County's application for approval of the financing at its meeting on February 2, 2021;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County (the "Board"), as follows:

1. The issuance of the Bonds and the financing of the Project pursuant to and in accordance

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<http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

with the terms and conditions of the Documents, in the aggregate principal amount not to exceed \$25,000,000, with a true interest cost not to exceed 2.70%, and a final maturity not to extend beyond 2041, is hereby approved.

2. The Chairman or Vice Chairman of the Board, the County Manager and the County Finance Director, or any of them, are hereby authorized and directed to execute and deliver the Trust Agreement, the First Supplemental Trust Agreement, the 2021 Bonds, the Deed of Trust, and the Bond Purchase Agreement (collectively, the “County Documents”), which shall be in substantially the forms previously submitted, which are hereby approved, with such completions, omissions, insertions, and changes as may be approved by the Chairman, Vice Chairman, County Manager or County Finance Director, with the advice of the County Attorney and Co-Bond Counsel, including such changes as may be required by the LGC, their execution to constitute conclusive evidence of their approval of any such completions, omissions, insertions and changes. The Clerk to the Board or any Deputy Clerk to the Board shall attest and seal such documents as require the Clerk’s attestation and the County seal.

3. The form of the Preliminary Official Statement and the distribution thereof by the Underwriter to prospective purchasers of the 2021 Bonds is hereby approved. The sale of the 2021 Bonds to the Underwriter as contemplated in the Bond Purchase Agreement is hereby approved, subject to the limitations set forth in Section 1. The County is authorized to deem the Preliminary Official Statement to be “final” within the meaning of Rule 15c2-12 of the Rules and Regulations promulgated under the Securities Exchange Act of 1934, as amended. Any of the Chairman, Vice Chairman, County Manager or County Finance Director or their respective designees are hereby authorized and directed to deliver the final Official Statement (in substantially the form of the Preliminary Official Statement, but incorporating the final terms and details of the 2021 Bonds) to the Underwriter and the Underwriter is hereby authorized and directed to distribute the Official Statement to the purchasers of the 2021 Bonds. Delivery of the final Official Statement will constitute conclusive evidence of the County’s approval thereof.

4. The Board hereby approves the execution and delivery, as applicable, by the County of the County Documents and any other documents or certificates that may be required in connection with the issuance of the 2021 Bonds.

5. Each of the Chairman, Vice Chairman, County Manager, County Finance Director, County Attorney and Clerk to the Board is hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this resolution and to effect the financing pursuant to the Documents. Without limiting the generality of the foregoing, each of the Chairman, Vice Chairman, County Manager and County Finance Director is authorized to approve all details of the financing, including without limitation, the annual payments due under the First Supplemental Trust Agreement, the interest rates on the 2021 Bonds, and the term for the 2021 Bonds under the First Supplemental Trust Agreement. Execution of the County Documents by the Chairman, Vice Chairman, County Manager or County Finance Director, as the case may be, shall conclusively evidence approval of all such details of the financing.

6. To the extent permitted by law, the County Manager, or such other officer or employee of the County as may be responsible from time to time for the preparation of the County’s annual budget, is hereby authorized and directed to carry out the obligations imposed by the Documents on such officer or employee.

7. All other actions of the officers of the County which are in conformity with the purposes or intent of this resolution and in furtherance of the execution and delivery of the Documents to which the County is a party are hereby ratified, approved and confirmed. The representations of the County made in the Documents to which it is a party are hereby confirmed.

8. The following financing team members shall serve for the issuance of the 2021

Bonds: Financial Advisor:	DEC Associates, Inc.
Underwriter:	PNC Capital Markets LLC Underwriter’s
Counsel:	Womble Bond Dickinson (US) LLP
Co-Bond Counsel:	McGuireWoods LLP and The Charleston Group
Trustee:	Regions Bank

9. All resolutions or parts thereof in conflict herewith are hereby repealed.

10. This resolution shall take effect immediately.

Vicki Evans, Finance Director, presented the background information recorded above and referenced the resolution also recorded above.

MOTION: Commissioner Adams moved to adopt the Final Approving Resolution recorded above; approve Budget Ordinance Amendment #B210076 which authorizes the \$10,000,000 funding contribution to be made to FTCC on a reimbursement basis for construction costs incurred on the FTCC Fire Training Project. The funding source is debt proceeds, established within the Capital Investment Fund; approve Capital Project Budget Ordinance Amendment #B210088 which appropriates \$1,000,000 from the E911 Fund Balance to the EOC Capital Project fund, transfers \$5.8 million back to the Capital Investment fund, allocates costs for the debt financing, and aligns expenditures with the contracted construction costs and other estimated costs as provided by AECOM on October 22, 2020; and forward to the January 19, 2021 meeting as an item of business.

SECOND: Commissioner Keefe

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

- I. Revision and Amendment to the Cumberland County Zoning Ordinance in its Entirety for the Purpose of Bringing the Ordinance into Compliance with the Newly Adopted Chapter 160D State Statutes and Updating the Table of Contents as Appropriate

BACKGROUND

Staff is requesting the Board of County Commissioners review and consider a comprehensive text amendment to the Cumberland County Zoning Ordinance to bring the current ordinance into compliance with the recently adopted Chapter 160D State Statutes. The 160D statutes were created to consolidate the separate city and county regulations into a single chapter, clarify terminology, and modernize review processes. The newly consolidated chapter also addresses legal issues such as permit choice, staff and board conflicts of interest, and appeal processes.

The statute became effective June 19, 2020. The General Assembly gave a deadline for adoption to all local governments of July 1, 2021. The Joint Planning Board reviewed and unanimously approved the text amendment at their December 15, 2020 meeting.

RECOMMENDATION / PROPOSED ACTION

Staff recommends the Board of Commissioners consider and accept the Planning Board's recommendation to approve the text amendment at their January 19, 2021 Regular Meeting.

ARTICLE I ADMINISTRATIVE PROVISIONS

SECTION 101. INTENT AND PURPOSE.

An ordinance establishing zoning regulations in Cumberland County, North Carolina, and providing for the administration, amendment and enforcement of this ordinance and defining the duties and powers of a Board of Adjustment in accordance with the provisions of the North Carolina General Statutes and amending all previous Cumberland County Zoning Ordinances. This ordinance is to provide for the public health, safety and general welfare, encourage orderly development, protect the quality of the environment and regulate the location and use of structures and land for commerce, industry, residences, parks, public uses, etc., in accordance with the Comprehensive Land Use Plan.

State Statute Reference: N.C. GEN. STAT., Chapter ~~153A~~ [160D](#), ~~Planning and Regulation of Development~~ [Local Planning and Development Regulation](#)

SECTION 102. TITLE.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

This ordinance shall be known and may be cited as the “Cumberland County Zoning Ordinance.”

SECTION 103. AUTHORITY.

The Board of Commissioners of Cumberland County, pursuant to the authority conferred by N.C. GEN. STAT. §~~153A-340~~ [160D-702](#) *et seq.*, adopts, approves, enacts, and ordains this ordinance.

SECTION 104. JURISDICTION.

On and after ~~June 20, 2005,~~ [its effective date](#) this ordinance and subsequent amendments thereto shall govern the use of all lands within Cumberland County and all areas located outside of the jurisdiction of any municipality [including development, as well as floating homes over estuarine waters, and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12.](#) In accordance with N.C. Gen. Stat § 160D-202, ~~t~~^rhis ordinance may also regulate territory within the jurisdiction of any municipality whose governing body by resolution [requests County to exercise any or all of these powers in any or all areas lying within the city’s corporate limits and County’s Board of Commissioners, by resolution, accepts such jurisdiction; provided, however, that any such grant of jurisdiction from a municipality to County may be modified or rescinded in accordance with N.C. Gen. Stat. § 160D-202\(i\).](#) ~~agrees to such regulation; provided, however, that any such municipal governing body may, upon one year’s written notice, withdraw its approval of the County zoning regulations, and those regulations shall thereafter have no further effect within the municipality’s jurisdiction.~~
(Amd. 01-19-10)

SECTION 105. APPLICATION.

The provisions of this ordinance shall be interpreted and applied as minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, general welfare and protection of the property rights of the community.

SECTION 106. ORDINANCE ADMINISTRATOR.

This ordinance shall be administered and enforced by the County’s Planning & Inspections Director (hereinafter “Director”). This official or their representative shall have the right to enter upon the premises in any manner authorized by law as required to carry out the necessary duties for the fair and impartial enforcement of this ordinance. All questions arising in connection with enforcement and interpretation of this ordinance shall be presented first to the Code Enforcement Coordinator (hereinafter “Coordinator”). [The Coordinator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination if different. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail to the last address listed for the owner of the affected property on the county tax records and to the address provided in the request for a determination if different from the owner.](#) If the Coordinator, after consultation with and the agreement of the Director, finds that they are not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the Board of Adjustment, then the matter shall be referred to the board for review and decision in accordance with the provisions of Section 1604.

(Amd. 11-20-06; Amd. 02-19-08)

SECTION 107. STAFF CONFLICT-OF-INTEREST.

[No staff member of the Planning and Inspections Department shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member](#)

has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member of the Planning and Inspections Department shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

SECTION 10~~7~~8 . ZONING PERMIT.

A. Zoning Permit Required. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to commence the moving, alteration or repair of any structure, or the use of any land or building, including accessory structures, until the Coordinator has issued a zoning permit for such work or use. Such permit shall include a statement that the plans, specifications for, and intended use of such land or structure, in all respects, conform to the provisions of this ordinance and the County Subdivision Ordinance. Application for a zoning permit shall be made in writing to the Coordinator on forms provided for that purpose. Zoning permits shall be void after six months from date of issue unless substantial progress on the project has been made.

(Amd. 02-19-08, Amd. 04-18-11)

B. Approval of Plans. The Coordinator shall review all applications for a zoning permit for any purpose regulated by this ordinance and the County Subdivision Ordinance for conformity with this ordinance and the County Subdivision Ordinance. To this end, every application for a zoning permit shall be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Coordinator to ascertain whether the proposed activity conforms to this ordinance and the County Subdivision Ordinance:

1. The actual shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
3. The existing and intended use of all such buildings or other structures.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance and the County Subdivision Ordinance are being observed.

In any planned district, the Coordinator shall not issue a zoning permit for any new use or change in existing use except in conformance with an approved site plan. The site plan shall also, without limitation, comply with all applicable standards of the Article XIV of this ordinance.

(Amd. 01-19-10, Amd. 04-18-11)

C. Issuance of Zoning Permit. If the proposed activity as set forth in the application conforms with the provisions of this ordinance and the County Subdivision Ordinance, the Coordinator shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the Coordinator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provision of this ordinance or of the County Subdivision Ordinance and the County reserves the right to rescind any zoning permit mistakenly issued in contravention of the provisions of this ordinance or of the County Subdivision Ordinance.

(Amd. 02-19-08)

SECTION 1089. CERTIFICATE OF OCCUPANCY REQUIRED.

No land or structure (except for signs) or part thereof hereafter erected, moved or altered in its use shall be used until the Coordinator has issued a "Certificate of Occupancy" stating that such land, structure or part thereof conforms with the provisions of this ordinance and the County Subdivision Ordinance. Within three days after notification that a structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Coordinator to make a final inspection thereof, and to issue a "Certificate of Occupancy" if the building or premises or part thereof conforms with the provisions of this ordinance and the County Subdivision Ordinance; or if such certificate is refused, to state the reason for the refusal in writing.

(Amd. 02-19-08)

SECTION 10910. BONA FIDE FARM EXEMPTION.

The provisions of this ordinance do not apply to bona fide farms [or bona fide farming purposes as described and defined in N.C. Gen. Stat. § 160D-903](#). This ordinance does not regulate croplands, timberlands, pasturelands, orchards, or other farmlands, or any farmhouse, barn, poultry house or other farm buildings, including tenant or other dwellings units for persons working on said farms, so long as such dwellings shall be in the same ownership as the farm and located on the farm. ~~To qualify for the bona fide farm exemption, the land must be a part of a farm unit with a North Carolina State Cooperative Extension Office or United States Department of Agriculture farm number assigned.~~ Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this ordinance.

(Amd. 01-19-10)

State Statute Reference: N.C. GEN. STAT. § ~~153A-340~~ [160D-903](#)

SECTION 1101. FEES.

Each applicant for a zoning amendment, either general or for a Conditional Zoning District, text amendment, alternate yard requirement, appeal from administrative decisions, variance or Special Use Permit shall pay a nonrefundable fee in accordance with a schedule ~~recommended by the Planning Board and~~ adopted by the Board of Commissioners.

(Amd. 01-19-10, Amd. 04-18-11)

ARTICLE II
INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS

SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.

[All terms that are defined in N.C. Gen. Stat. Chapter 160D which are not defined in this ordinance shall have the meaning set out in N.C. Gen. Stat. Chapter 160D.](#) In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

[Administrative decision: Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in local government development regulations.](#)

Agriculture: ~~The practice of cultivating the soil, producing crops, and raising livestock; such as but not limited to dairying, pasturage, viticulture, horticulture, hydroponics, floriculture, aquaculture, truck farming, orchards, forestry and animal and poultry husbandry.~~ [The production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of](#)

agriculture, as defined in N.C. Gen. Stat. § 106-581.1. The operation of any accessory uses shall be secondary to that of the normal agricultural activities.

Bona Fide Farm: Any tract of land used for agricultural purposes as described and defined in N.C. Gen. Stat. § 160D-903. ~~where the land is used for the production of and activities relating to, or incidental to, the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.~~ (Section 109)

Building: ~~Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, cabins, lunch wagons, dining cars, trailers, manufactured homes and attached or unattached structures consisting of roof and supporting members, and similar structures whether stationary or movable.~~ Any structure used or intended for supporting or sheltering any use or occupancy.

Close familial relationship: For purposes of conflict of interest, a close familial relationship means a spouse, parent, child, brother, sister, grandparent or grandchild. The term also includes the step, half, and in-law relationships.

Conditional Zoning: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. (Article V, Article VI, Article VII & Article VIII)

Determination: A written, final and binding order, requirement, or determination regarding an administrative decision.

Dwelling: ~~A building or portion thereof designed, arranged or used for permanent living quarters. The term "dwelling" shall not be deemed to include a travel trailer, recreational vehicle, motel, hotel, tourist home or other structures designed for transient residence.~~ A building that contains one or more dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, Multiple Family: A residence designed for or occupied by two or more families ~~with separate housekeeping and cooking facilities for each.~~ consisting of two or more dwelling units.

Dwelling, Single Family: A detached residence designed for or occupied by one family only and consisting of one dwelling unit.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Site-Specific Vesting Plan: A plan used to determine development vested rights. This plan can include, but is not limited to, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as recognized by the County.

Special Use Permit: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions." (Section 1606)

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ARTICLE V COMPANION DISTRICTS –CONDITIONAL ZONING DISTRICTS

SECTION 501. GENERAL.

The Conditional Zoning districts set forth herein are authorized by N.C. GEN. STAT. §~~153A-342~~ [160D-703](#) and are intended to modify the uses to which the parallel zoning district is restricted. Generally, an applicant, by seeking to rezone property to a Conditional Zoning district, will propose to restrict or eliminate Permitted, Conditional or Special Uses. Request for Conditional Zoning district rezoning shall be processed administratively in the same manner as for amendments to this ordinance as established in Article XV.

Conditional Zoning districts are floating districts that parallel general zoning districts. Conditional Zoning districts are identical to their corresponding general zoning districts in all respects except that a permit is required as a prerequisite to any use (Permitted, Conditional or Special) or development within them.

Parallel Conditional Zoning districts are provided as a voluntary alternative method of petitioning the Board of Commissioners for a zoning map or classification change. The owner may submit conditions that restrict the uses that would otherwise be allowed in the zoning district and only those uses specifically requested in the application shall be considered.

(Amd. 02-19-08; Amd. 04-18-11)

SECTION 504. ACTION BY THE PLANNING BOARD.

The Planning Board may hold a public ~~hearing~~ [meeting](#) during which the applicant may voluntarily make modifications to the request. The Planning Board shall review the request for a Conditional Zoning district rezoning and make a recommendation to the Board of Commissioners. When ~~favorably recommending approval of the Conditional Zoning district~~ [making this recommendation](#), the Planning Board shall issue a statement addressing the reasonableness of the proposed rezoning, in addition to addressing the request's consistency with ~~the current Land Use Plan for the area in which the subject property is located~~ [any comprehensive plan that has been adopted and any other officially adopted plan that is applicable](#).

(Amd. 11-20-06; Amd. 04-18-11)

SECTION 505. ACTION BY THE BOARD OF COMMISSIONERS.

The Board of Commissioners shall hold a ~~public~~ [legislative](#) hearing to consider the Conditional Zoning district rezoning and shall review the application, recommendations from the Planning Board, suggested conditions, and other information presented at the ~~public~~ [legislative](#) hearing. ~~If~~ [The Board of Commissioners approve the rezoning application, shall adopt](#) a statement analyzing the reasonableness of the proposed rezoning along with addressing the consistency of the request with ~~the current Land Use Plan~~ [any applicable officially adopted comprehensive plan](#) for the area in which the subject property is located [and this statement](#) shall be made a part of the record.

In approving the application, the Board of Commissioners, with mutual agreement of the property owner(s) [recorded in writing](#), may attach such reasonable requirements or conditions in addition to those specified in the Planning Board's recommendation. The conditions may include, but shall not be limited to:

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- A. The location of the proposed use on the property;
- B. The number and location of structures;
- C. The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
- D. The location and extent of buffer areas and other special purpose areas on the property;
- E. The height of any structure;
- F. The phasing of development;
- G. Other restrictions on the use of the property that adhere to the purposes of this ordinance and maintain the public health, safety and welfare; and
- H. Such other matters as the applicant shall propose.

The record shall reflect that the property owner(s) voluntarily agree to all conditions proposed.
(Amd.11-20-06; Amd. 04-18-11)

ARTICLE VII PLANNED NEIGHBORHOOD DEVELOPMENT – CONDITIONAL ZONING DISTRICT

SECTION 705. DEVELOPMENT STANDARDS.

A. Land Use Proportions.

1. Non-Residential Uses: A maximum of five percent of the gross land area of the development may be devoted to such convenience commercial uses as listed above, with no one tract to exceed ten acres.

If more than one tract of land is proposed for commercial uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.

2. Residential Uses: The maximum density of residential units per acre of the gross land area shall be six except as provided below. In determining the maximum number of units, the acreage denoted to commercial uses shall not be included.
(Amd. 02-19-08)

The commercial land area may be proportioned if the developer wishes, i.e., three and three quarters percent commercial and six and one-half units per acre of gross land area; two and one-half percent commercial and seven units per acre of gross land area; one and one-quarter percent commercial and seven and one-half units per acre of gross land area. In lieu of all commercial development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

B. Open Space and Recreational Facilities. Where the Fayetteville-Cumberland Parks and Recreation Master Plan or any other plan of the County or municipal government adopted after the effective date of this amendment identifies land in the proposed PND as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to a PND shall

either be placed in an owners' association, under the same provision and conditions as provided for in the County Subdivision Ordinance, or be dedicated to the County of Cumberland for use as parks, recreation areas, and open space. At least 50 percent of the area offered for dedication must be suitable for recreational use. The Board of Commissioners,' after their consideration of the Planning Board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND.

(Adm. 02-19-08)

The entire dedication may be made when the preliminary plat is presented to the Board of Commissioners; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the PND plan.

No parcel of land dedicated shall be less than one contiguous acre which shape is acceptable to the Board of Commissioners and all such areas shall be physically a part of the PND. Detached single-family dwelling units are exempt from any further open space dedication requirements of the Subdivision Ordinance. Residential group developments must provide the recreation areas required by the Subdivision Ordinance.

When according to adopted County or municipal plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners' association, under the same provision and conditions as provided for in the County Subdivision Ordinance; the land shall be dedicated to the County for use as parks and recreation and open space; or a fee shall be paid to the County of Cumberland for the acquisition of land for recreation purposes in accordance with the provisions of N.C. GEN. STAT. § ~~153A-331~~ 160D-804. The Board of Commissioners shall decide which option is appropriate. If a fee is chosen, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the PND. The entire dedication of land or fee may be made at the time the preliminary plat is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the PND. A fee in lieu does not entitle the PND to additional residential units or commercial acreage.

C. Buffer Requirement. Buffers meeting the standards of Section 1102.G shall be provided. The Board of Commissioners' upon recommendation from the Planning Board may require additional buffering, when the proposed nonresidential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the non-residential character of the uses.

D. Off-Street Parking and Loading Spaces. Off-street parking and loading spaces shall be provided as required for the specific uses as listed in Article XII.

E. Sign Regulations. All signage shall comply with the standards enumerated in Section 1306 with non-residential uses not exceeding the standards for the C1(P) zoning district.

F. Dimensional Provisions. Residential uses shall meet or exceed the minimum standards for setbacks of the R7.5 Residential District along all public streets and on the periphery of the development. All non-residential uses shall observe the yard regulations for the C1(P) zoning district along the public streets and on the periphery of the PND.

G. Schedule of Development. Development of the commercial portion of a PND shall not commence until the following schedule of the number of residential units approved for the PND have been developed:

<i>Size of PND</i>	<i>Units Approved</i>
50 to 100 acres	50%
Over 100 acres, up to 150 acres	40%
Over 150 acres, up to 200 acres	30%
Over 200 acres	25%

ARTICLE IX
INDIVIDUAL USES

SECTION 906 DAY CARE FACILITIES

A. For day care facilities located within any residential or agricultural zoning district, the following provisions must be complied with:

- 1. Minimum lot size shall be 20,000 square feet.
- 2. The required minimum setbacks shall be as follows:
 - a. Front yard: 30 feet from any public or private street;
 - b. Rear yard setback: 35 feet;
 - c. Side yard setbacks: 20 feet; and
 - d. Corner lots: shall provide a minimum of 30 feet from both streets.

3. Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.

B. Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district.

C. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.

D. There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.

E. All children’s outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the ~~N.C. BLDG CODE § R312.2 (2006)~~ [most currently adopted North Carolina State Building Code](#).
(Amd. 11-20-06; Amd. 02-19-08; Amd.01-09-10)

SECTION 907.1. FIRING RANGE, OUTDOOR.

A. A detailed site plan complying with the provisions of Article XIV shall be submitted for review and if approved, all applicable permits must be obtained prior to commencement of range

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activity. The detailed site plan shall be sealed by a North Carolina registered engineer attesting that the proposed plan incorporates the specific safety and design standards for outdoor firing range provisions and live fire shoot house provisions, if applicable, as set out in Section 4, Outdoor Range Design; Section 6, Live Fire Shoot House; and Attachments 1-2 through 1-20 of the *Range Design Criteria* (June 2012) as published by the US Department of Energy's Office of Health, Safety and Security for the type of range proposed; except that Section 4.b(10), the words "or administrative" in the first sentence of Section 4.c(7), the second sentence of Section 4.c(7) and Section 6.a(1) shall not be considered for the reason that these sections are specific to the needs of the DOE.

[Editor's note: A hardcopy of the Range Design Criteria is available for public viewing in the office of the ~~Land Use Codes~~ Current Planning section of the Planning & Inspections Department and a hyperlink is provided in this same section in the ordinance on the department's website.]

B. The site on which the outdoor firing range is proposed shall contain a minimum of 200 acres within a tract or contiguous tracts owned or leased under a recorded lease to the owner/operator of the outdoor firing range. The detailed site plan shall show the boundary of the subject property in its entirety and shall further disclose all existing uses, if discernible, and structures within a distance of 300 feet from the boundary.

C. Surface danger zones shall be located entirely on the subject property and shall be designed to contain all projectiles and debris caused by the type of ammunition, targets and activities to be used or to occur on the property. The layout of the proposed range(s) with the accompanying safety fans shall be delineated on the required site plan for each/all range(s) to be constructed on the property. All firing stations shall be setback a minimum of 180 feet from the boundary of the subject property.

D. A 60 foot wide buffer, undisturbed except for fence installation and vegetative planting, shall be provided around the entire perimeter of the subject property and shall also be delineated on the detailed site plan.

E. A firing range facility must have access to an approved private street or a public street.

F. Unauthorized access to the firing range facility shall be controlled while firearms are being discharged.

G. The developer/operator of the firing range facility shall provide to Code Enforcement at the time of application for the building final inspection, a certification prepared by a North Carolina registered engineer that the firing range facility has an environmental stewardship plan, which may include semi-annual soil and water sampling, regular liming of the soil to prevent lead migration, reclamation and recycling of the lead and is compliant with the Best Management Practices, specifically relating to lead management, as specified by the Environmental Protection Agency's (EPA's) most current edition of *Best Management Practices for Lead at Outdoor Shooting Ranges*.

H. If any firing range facility, or the use thereof, is intended to be expanded to include types of ranges, operations, munitions or activities not covered by the most current conditional approval or pre-existing status, re-submittal/submittal of the site plan for the entire firing range facility for review and approval of the change or expansion shall be required prior to commencement of the change or expansion. This provision applies regardless whether or not the firing range facility was in existence prior to the adoption of this section.

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I. All outdoor firing range facilities shall maintain general liability insurance coverage in an amount of not less than Three Million Dollars through an insurance company licensed to do business in North Carolina. The policy shall not exclude coverage for property damage or personal injury caused by the discharge of firearms.

J. All other applicable Federal, State and local regulations to include the County's Noise Ordinance shall be strictly adhered to.

K. This sub-section K shall specifically apply to all non-permitted existing uses which are outdoor firing ranges within the definition of this ordinance, except those as may be permitted in accordance with this sub-section. A permit shall be issued for any non-permitted outdoor firing range in operation on June 20, 2005, upon the submission of an application that shall include:

1. The date upon which the applicant commenced outdoor firing range operations on the site;

2. An aerial map which shows the boundaries of the site and the improvements located thereon;

3. A statement of the hours of operation;

4. A statement of the largest caliber ammunition discharged on the site; and

5. A narrative description of the measures employed (a) to control unauthorized access to the facility when weapons are being discharged, (b) to prevent projectiles from leaving the site, (c) to mitigate noise and (d) to mitigate potential lead contamination of the groundwater.

The permit issued under this sub-section K shall establish the benchmark for the determination of an expansion under sub-section H. Any facility permitted under this sub-section K shall remain subject to all other applicable state laws and local ordinances.

ARTICLE X OTHER USES

SECTION 1002. INCIDENTAL USES.

A. Home Occupations. A home occupation shall be permitted as an accessory use to any dwelling unit and may be conducted in the principal structure or an accessory structure provided that:

1. The principal person or persons providing the business or service resides in the dwelling on the premises;

2. The area used for the business or service does not exceed 25 percent of the combined floor area of the structures or 500 square feet, whichever is less;

3. All work associated with the home occupation is conducted inside the designated building(s);

4. An attached sign not more than two square feet in area is allowed;

5. The property contains no outdoor display or storage of goods or services associated with the home occupation;

6. The home occupation causes no change in the external appearance of the existing building and structures on the property;

7. One additional parking space is allowed;

8. Wholesale sales of goods do not occur on the premises;

9. The home occupation employs no more than one person who does not reside on the premises;

10. The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;

11. One vehicle, no heavier than $\frac{3}{4}$ ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner, so as not to disrupt the quiet nature and visual quality of the neighborhood;

12. A small home day care shall be permitted as accessory to any dwelling unit, provided that the following additional conditions are met, as well as the other conditions of this section:

a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and

b. No more than eight children who are unrelated to the operator can be cared for during any 24-hour period.

13. All Federal, State, and local regulations, including the County Environmental Health regulations are complied with in the conduct of the home occupation.

B. Outside Storage and Display. Outside storage of goods, equipment and material shall be prohibited in any O&I(P) and any outside storage in the C1(P), C2(P) or C(P) district shall be buffered from view from any public street. Outside display of merchandise which is normally required in conducting the commercial operation is permitted in any of the above-named districts except the O&I(P) District.

(Amd. 02-19-08; Amd. 04-18-11)

C. Swimming Pools. Every swimming pool, public and private, as defined by this ordinance is permitted as an incidental use and shall be regulated as follows:

1. The setback for a swimming pool from any side and rear lot line shall be ten feet.

2. A fence shall be erected to a minimum height of four feet to completely enclose the portion of yard containing the pool and shall include a gate that can be securely fastened for below-ground pools. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing

established in the ~~N.C. Bldg code § R312.2 (2006)~~ [most currently adopted North Carolina State Building Code](#).

3. All mechanical equipment shall be located a minimum of five feet from any property line.

4. All floodlights shall be shielded from adjacent properties to reduce offensive glare.

5. All electrical wiring shall be in conformance with the National Electrical Code.

6. A water discharge plan for the proposed use shall be submitted showing the location of buildings, yard dimensions and other pertinent data. This plan shall also stipulate the type of system used for disposal of waste from the site. No permit shall be issued until the Coordinator determines that the water discharge plan is adequate by meeting one or more of the following criteria:

a. The discharge system shall drain directly into the street storm drainage system, other public storm drainage systems or natural stream; or

b. Enough hose is made available to discharge such water into the above public ways; or

c. That water discharge can be accomplished on the lot without threat of discharge onto adjacent lots.

7. In any zoning district, a swimming pool may not be located in a required front yard, including residential corner lots subject to Section 1101 G.
(Amd. 02-19-08)

D. Accessory Retail Uses. Accessory retail uses include shops incidental to a hospital or clinic, variety, book, cafeterias, soda bars, coffee shops, beauty shops, and barbershops incidental to institutional or professional office buildings or manufacturing facilities. Accessory retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students or visitors and not the general public. Such retail use, which is conducted wholly within the principal building without access thereto other than from within the building, without exterior advertising display, shall be permitted.

E. Accessory Structures. The following provisions apply to all accessory structures:

1. Accessory structures shall not be rented or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.

2. Accessory buildings not intended to be used for living quarters shall not be constructed upon a lot until the construction of the principal building has commenced.

3. Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure.

4. Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure.

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Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope.

(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)

ARTICLE XV AMENDMENTS

SECTION 1501. SUBMISSION OF AMENDMENTS AND CHANGES.

The Board of Commissioners may amend, supplement, change, modify, or repeal the provisions of this ordinance, including but not limited to: its regulation of, or the number, area, boundaries and classifications of the zoning districts, upon petition, recommendation of the Planning Board, or on its own motion, after public notice and hearing as provided by law. No amendment shall become effective unless and until it is first submitted to, considered by and reported on from the Planning Board and thereafter approved by the Board of Commissioners. The following provisions shall govern submissions for amendment of this ordinance.

A. Submission of Petition. Petitions for amendments to this ordinance shall be submitted in the form prescribed by the Director. Submissions by the Board of Commissioners or by the Joint Planning Board on its own initiative shall state the proposed amendment succinctly. When a petition for rezoning is made by a person other than the tax record property owner, ~~or~~ a local government entity, or authorized agent of the tax record owner or a local government, the application must provide certification that the property owner has received actual notice of the petition and a notice of the ~~public~~ legislative hearing. Third-party down-zonings are prohibited unless initiated by the governing body.

(Amd. 01-19-10)

B. Schedule for Public and Legislative Hearings. All petitions for amendments may be set for public ~~hearing~~ meeting to be considered for recommendation by the Planning Board, and then shall be heard at ~~public~~ a legislative hearing and decided by the Board of Commissioners according to their adopted regular meeting schedule.

C. Revisions to Petitions. ~~Once~~ If upon the initial review of the petition for amendment ~~has been reviewed~~ by the Planning and Inspections Staff, ~~and~~ the petition is found to be inaccurate, incomplete or requires revision, or if the applicant of his own accord desires to make a change in the application for the petition, the petition may be rescheduled to the next available scheduled hearing.

C. Notice to Military Bases. All requests for amendments that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of Fort Bragg, Pope Air Force Base, and/or Simmons Army Airfield shall be provided to the Commander of said bases in accordance with N. C. GEN. STAT. §~~153A-323~~ 160D-601.

(Amd. 02-19-08)

SECTION 1503. PLANNING BOARD HEARING AND RECOMMENDATION.

A. The Planning Board, upon receipt of a proposed amendment, by petition or otherwise, and upon a recommendation from the Planning and Inspections Staff, shall consider each proposed amendment and may hold a public ~~hearing~~ meeting, public notice of which shall be given, for such consideration. Minutes of each meeting shall be kept in writing. Upon petition or other proposal for an amendment of the ordinance for the purpose of establishing a Conditional Zoning district or specifically changing the classification of an existing district or part thereof, the

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Planning Board may consider amending the ordinance to provide a classification or reclassification other than that specifically requested or recommended, provided that the notice to landowners and notice of public ~~hearing~~ [meeting](#) state that classifications or reclassifications other than that requested may be considered. If, upon receipt of a proposal to reclassify one type of general zoning district to another, or the Planning Board proposes, or has a proposal from the Board of Commissioners, to consider establishment of a Conditional Zoning district, it must refer such proposal to the owners of the property to be included in such district for submission of a petition in accordance with the provisions of Article V hereof; no consideration of such a proposal shall occur unless and until such a petition is received.

B. Following consideration of proposed amendments, supplements, changes, modifications or repeal of provisions of this ordinance, the Planning Board shall report all proposals it has considered to the Board of Commissioners along with a statement addressing consistency of the request with ~~the current Land Use Plan~~ [any comprehensive plan that has been adopted and any other officially adopted plan that is applicable](#) and with its recommendation thereon. Failure of the Planning Board to make a report and recommendation within 30 days after hearing a petition for a specific amendment shall constitute a favorable report and recommendation for such amendment.

(Amd. 11-20-06; Amd. 04-18-11)

C. A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this ordinance or N.C. Gen. Stat. Chapter 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

SECTION 1504. BOARD OF COMMISSIONERS' HEARING AND FINAL DISPOSITION.

A. Upon receipt of reports and recommendations from the Planning Board concerning proposed amendments, supplements, changes, modifications or repeal provisions of this ordinance, the Board of Commissioners shall schedule a ~~public~~ [legislative](#) hearing, upon notice to landowners of proposed action and notice of the ~~public~~ hearing as required by law, and therefore shall approve or deny the proposed action. A failure to approve a proposed action shall constitute a denial of the proposal.

B. The Board of Commissioners may approve an amendment of this ordinance to provide a classification or reclassification of a zoning district or part thereof, other than that specifically requested by a petitioner, provided that the notice to landowners and the notice of ~~public~~ [legislative](#) hearing required by law states that classifications or reclassifications other than that requested will be considered and further provided that the Planning Board has considered other such classifications or reclassifications and reported on them to the Board of Commissioners. If such notice or such consideration has not been accomplished, the Board of Commissioners shall refer its proposal to amend this ordinance in a way other than that proposed by the petitioner to the Planning Board for further action in accordance with this ordinance.

C. To approve any amendment, supplement, change, modification or repeal of any provisions of this ordinance, the Board of Commissioners shall address [in a brief statement](#) the consistency of the action with ~~the current Land Use Plan~~ [any officially adopted comprehensive plan](#); and make a finding and determination, entered in the minutes of the meeting, that such action is

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reasonable, neither arbitrary or unduly discriminatory and in the public interest. Consideration of any Conditional Zoning district is governed by Article V of this ordinance.

D. Notice of approval of any amendment for an industrial zoning district within 660 feet of the right-of-way of interstate or primary highways shall be sent by registered mail to the North Carolina Department of Transportation in accordance with N. C. GEN. STAT. § 136-153.
(Amd. 11-20-06; Amd. 04-18-11)

E. A member of the Board of Commissioners shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance or N.C. Gen. Stat. Chapter 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Commissioner shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

ARTICLE XVI BOARD OF ADJUSTMENT

SECTION 1601. ESTABLISHMENT.

The Board of Commissioners, pursuant to N.C. GEN. STAT. §~~153A-340~~ 160D-302, does establish a Board of Adjustment. Such Board shall consist of at least five members appointed by the Commissioners, with membership providing for a means of proportional representation of the County's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Commissioners shall also appoint five alternate members at large to serve in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting.

SECTION 1602. PROCEEDINGS.

The Board shall elect a Chairperson and Vice-Chairperson from among its members. The Director shall assign a staff member to fill the Secretary and Clerk positions. Meetings of the board shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson or any member acting as Chair and the ~~Secretary~~ Clerk to the Board are authorized to administer oaths for all testimony. The Chairperson may compel the attendance of witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor. The Vice-Chairperson or any member of the board while temporarily acting as Chairperson has and can exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every motion or question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

The Clerk to the board shall transmit to the board all applications, reports and written materials relevant to the matter being considered. The administrative materials may be distributed to the board members prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on objections shall be made by the board at the hearing.

SECTION 1603. POWERS AND DUTIES.

The Board of Adjustment shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development:

A. Hear and decide special use permits, requests for variances, and appeals of decisions relating to the administrative review of any order, requirement, decision or determination made by the Director or other administrative official regarding enforcement of this ordinance or other ordinance that regulates land use or development. (see Section 1604 below)

B. Vary or modify any of the regulations or provisions of this ordinance related to the construction or alteration of buildings or structures, dimensional requirements and minimum standards of individual uses except for specific location criteria for individual uses, in accordance with Section 1605, where there are unnecessary hardships in carrying out the strict letter of this ordinance, so that the spirit, purpose and intent of the ordinance shall be observed, public safety is secured and substantial justice achieved;

C. May hear and decide special use permit applications in accordance with standards and procedures specified in Section 1606;

D. ~~Repealed.~~ Hear and rule on appeals from the County's Minimum Housing and Nonresidential Code.

E. Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with Sections 1003 and 1004;

F. Rule on matters related to the County's Water Supply Watershed Management and Protection Ordinance regarding High Density developments, appeal of the Watershed Review Officer's decision, and hear request for variance from the County Water Supply Watershed Management and Protection Ordinance;

G. Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance.

~~H. Repealed.~~

SECTION 1604. APPEALS.

The Board of Adjustment shall hear and decide from decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development pursuant to all of the following:

A. Any person who has standing under N.C. Gen. Stat. ~~160A-393(d)~~ [160D-1402](#) or the County may appeal a decision to the Board of Adjustment. The notice of appeal shall state the grounds for the appeal.

B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the subject property owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. In the absence of evidence to the contrary, notice given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

C. The owner or other party shall have 30 days from the receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

D. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a ~~permit~~ [development approval](#) or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for ~~permits or permissions~~ [development approvals](#) to use such property; in these situations the appellant [or local government](#) may request and the board may grant a stay of a final decision of ~~permit~~ [development approval](#) applications ~~or~~ , [including](#) building permits affected by the issue being appealed.

E. Subject to the provisions of subdivision (D) of this sub-section, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

F. The official who made the decision [or the person currently occupying that position if the decision-maker is no longer employed in that position](#) shall be present at the [evidentiary](#) hearing as a witness. The appellant shall not be limited at the hearing to matters stated in ~~the a~~ notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

SECTION 1605. VARIANCE.

When unnecessary hardships would result from carrying out the strict letter of ~~this ordinance, or other land use regulation or ordinance~~ [a zoning regulation](#), the Board of Adjustment shall vary any of the provisions of the ~~ordinance~~ [zoning regulation](#) upon a showing of all of the following:

A. Unnecessary hardship would result from the strict application of the ~~ordinance~~ [regulation](#). It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. [A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.](#)

C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

D. The requested variance is consistent with the spirit, purpose and intent of the ~~ordinance~~ [regulation](#), such that public safety is secured, and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. [No change in permitted uses may be authorized by a variance.](#) The Board of Adjustment is [also](#) not authorized to grant variances to any use approved in a Conditional Zoning district or to the specific conditions or other performance criteria imposed upon such use. If the board denies a variance request, the board shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

SECTION 1606. SPECIAL USE PERMITS.

The Board of Adjustment shall hear and decide applications for Special Use Permits. The various Special Uses set forth in the Use Matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.

A. Purpose. Permitting Special Uses adds flexibility to this ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

B. Procedure. Special Use Permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and a detailed site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule.

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Developers are encouraged to discuss their Special Use plans with the Planning and Inspections Staff before submission. The staff shall assist the developer upon request by reviewing Special Use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the Special Use Permit requested. In granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan.

D. Final Disposition. In granting approval of a Special Use Permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest and as authorized under N.C. Gen. Stat. Chapter 160D. The applicant/landowner must give written consent to all imposed conditions. In granting a Special Use Permit, the Board of Adjustment may give due consideration to one or all of the following:

1. The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;
2. The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;
3. The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;
4. The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;
5. The added noise level created by activities associated with the proposed use;
6. The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

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7. Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

8. The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

9. The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

10. The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

11. The availability of public facilities and utilities;

12. The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

13. The reasonableness of the request as compared to the purpose and intent of the most recent Land Use Plan, this ordinance, and adopted policies, for the physical development of the district, and protection of the environment.

All such additional conditions imposed on the permit by the Board of Adjustment shall be entered in the minutes of the meeting at which the Special Use Permit is granted, on the Special Use Permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns. The applicant for the Special Use Permit is responsible for the recordation of the "Notice of Special Use Permit" with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same Special Use Permit on the same property without a substantial material change concerning the property and the application.

E. Expiration of Permits. Any Special Use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval if the permit has not been recorded with the County Register of Deeds. Furthermore, once the Certificate of Occupancy has been issued for a Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, a re-submittal of the Special Use application for the same use may be required if there has been a material change in the ordinance standards.

F. Modifications to Plans. The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a Special Use application, and new conditions may be imposed where findings require. The Planning and Inspections Staff may approve minor modifications of the approved plans in the same manner as authorized in Section 506 for Conditional Zoning districts, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

G. Noncompliance. If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the Special Use Permit shall be null and void and of no effect, and the Planning and Inspections Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a Special Use Permit is an essential element of the Special Use Permit's continued validity and effectiveness. If the Coordinator shall determine that a permittee has failed to comply with a condition of an approved Special Use Permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the Board's decision whether or not to revoke the Special Use Permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the Special Use Permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery, electronic mail or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, may constitute written notice and service of the Board of Adjustment's decision hereunder.

H. Appeals of Special Use Permit Decisions. No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit except through the Cumberland County Superior Court in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

SECTION 1607 HEARINGS

A. The applicant, the County, and any person who would have standing to appeal the decision under N.C. Gen. Stat. 160D-1402(d) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal, the standing of a party, or the inclusion or exclusion of administrative material may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board.

AB. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted written request for a copy, prior to the date the decision becomes effective. The Clerk to the board shall certify that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

BC. The Secretary to the Board of Adjustment shall ensure the Commanders of Fort Bragg, Pope Army Airfield, and Simmons Army Airfield are notified of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. § ~~153A-323~~ 160D-601.

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SECTION 1608. REQUIRED VOTE.

A. The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this sub-section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

B. A member of the ~~Board~~ Board of Adjustment exercising quasi-judicial functions pursuant to this ~~article~~ ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

SECTION 1609. REVERSAL/REVOCATION OF DECISION.

After a hearing has been held and approval granted, the Board of Adjustment may reverse or revoke any decision in the same manner as was required for the approval ~~without notice to the property owner and affected applicant if not the owner~~ upon finding that:

- A. The approval was obtained by fraud;
- B. The use for which such approval was granted is not being executed;
- C. The use for which such approval was granted has ceased to exist or has been suspended for one calendar year or more;
- D. The permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval;
- E. The permit granted is in violation of an ordinance or statute; or
- F. The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

SECTION 1610. APPEAL OF FINAL DECISION.

Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to N.C. GEN. STAT. § ~~160A-393~~ 160D-1402. A petition for review of a quasi-judicial decision shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with ~~subdivision A of this sub-section~~ G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. The provisions of N.C. Gen. Stat. § 160D-1402 shall apply to the appeal.

(Amd. 02-19-08; Amd. 08-18-08; Amd. 01-19-10; Amd. 04-18-11; Amd. 08-21-17)

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ARTICLE XVII LEGAL PROVISIONS

SECTION 1702. VESTED RIGHTS.

For purposes of vesting development rights, this ordinance incorporates by reference the provisions set forth in NC GEN. STAT. § ~~153A-344.1~~ [§160D-108](#); ~~to include site-specific vesting plans. pursuant to which in that a property owner may vest his development right for a period of two calendar years in instances when review and approval is not required under the County Subdivision Ordinance by the approval of an application for a zoning permit.~~

[If an application is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision for approval was rendered, the applicant may choose which version of the development regulation will apply to the development approval. If the applicant chooses the version of the rule in place at the time of the application, the applicant shall not be required to await the outcome of the amendment to the development regulation\(s\) prior to acting on the development approval. If the application is delayed or placed on hold for six consecutive months, the permit choice rule is waived and the application must meet the development regulations in place at the time the consideration of the application is resumed.](#)

Nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights or expectations in the continuation of any particular use, district, zoning classification, or other permissible activities herein; and, the same are all hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of the public health, safety and welfare.

Further, the provisions of this ordinance shall apply from and after its effective date. The provisions of this ordinance shall not apply to any site plan that received a valid approval under site plan review procedures of the County Zoning Ordinance, effective date July 3, 1972, and subsequent amendments thereto, to the extent no provisions hereof, would be more stringent or impose greater requirements. Notwithstanding the preceding sentence, the requirements of any section of this ordinance expressly stating it shall apply to developments existing on the effective date hereof, shall so apply to any such site plan.

SECTION 1703. VIOLATIONS.

A. Statutory Authority. This ordinance may be enforced by any [remedy authorized by N.C. Gen. Stat. § 160D-404 and N.C. Gen. Stat. §153A-123](#), ~~to include criminal prosecution for a misdemeanor in accordance with Gen. Stat. § 14-4. appropriate equitable action, including but not limited to, injunction and abatement, in addition to any other remedy authorized by N.C. GEN. STAT. §153A-123.~~

B. Process for Issuance of Notice of ~~Civil Citation~~ Violation. If a [Code Enforcement](#) Coordinator finds that any provision of this ordinance is being violated, the Coordinator shall cause to be served upon the [holder of the development approval and to the landowner of the property involved](#), if the landowner is not the holder of the development approval ~~offender or its agent~~, by ~~certified mail, return receipt requested, or by personal service~~ [personal delivery, electronic delivery, or first class mail](#), a notice of ~~civil citation~~ violation. [The notice of violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud.](#) The notice of ~~civil citation~~ [violation](#) shall indicate the nature of the violation and order the action necessary

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to correct it. The ~~citation~~ [notice of violation](#) shall also state the monetary penalty and the right of the offender to appeal the violation that is the basis of the citation to the Board of Adjustment within ten days from the date of service of the ~~citation~~ [notice of violation](#).

1. Responsible Parties. The owner, lessee, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains any violation of the provisions of this ordinance may be held responsible for the violation and be liable for the penalties and be subject to the remedies provided in Section 1704 below.

2. Separate Offense. Each day that any violation continues after notification by the Coordinator that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

3. Appeal of Citation Notice of Violation. If the offender files notice of appeal to the Board of Adjustment within the ten-day time period, the appeal shall stay the collection of the penalty so imposed as well as the corrective action prescribed in the citation. Appeals to the Board of Adjustment shall be administered as provided in Article XVI; however, the time for perfecting the appeal shall be ten days as hereinbefore stated. ~~A violation of this ordinance may not be appealed to the Board of Adjustment if the offender did not perfect an appeal to the Board of Adjustment within the ten-day time period set forth herein.~~

F. Emergency Enforcement. Notwithstanding the forgoing, in cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Coordinator may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

(Amd. 02-19-08)

SECTION 1704. PENALTIES.

A. A person who violates any of the provisions of this ordinance shall be subject to revocation of any permits and a civil penalty in the sum of \$500.00 following the issuance of a civil citation. [Each day the violation continues shall constitute a separate violation and the civil penalty shall accrue at the rate of \\$500 each day until the necessary corrective action is taken.](#) The penalty shall be recovered by the County in a civil action if the offender fails to pay the penalty to the Finance Director, Cumberland County, Post Office Drawer 1829, Fayetteville, North Carolina 28302, within ten calendar days after being cited for the violation. The civil action of recovery shall be in the nature of an action to recover a debt and shall include as an additional sum to be recovered the full costs of the action, including but not limited to, filing, service and attorney fees. ~~Second and subsequent violations shall subject the offender to a \$500.00 penalty.~~ Nothing in this section shall preclude the enforcement of this ordinance pursuant to the ~~all of the~~ provisions of N.C. GEN. STAT. §14-4 ~~where appropriate.~~

B. [Every violation of this ordinance shall be a misdemeanor punishable by a maximum fine of \\$500.](#)

SECTION 1706. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Cumberland County, this the ~~20th~~ day of ~~June, 2005~~.

Rawls Howard, Planning and Inspections Director, presented the background information recorded and stated this is state-mandated ordinance, consolidates city and county enabling statutes for development regulations (153A and 160A) and is the first comprehensive, state-wide land use code update in decades. Mr. Rawls stated the strikethrough and underlined portion was included in the agenda packet.

Commissioner Adams referenced the section dealing with conditional zoning and stated the hearings went from public hearings to legislative hearings. Commissioner Adams asked whether this meant notice would not have to be given. Mr. Rawls stated this is semantic-related and Planning staff will continue to do what they have always done under the public hearing format. Rick Moorefield, County Attorney, stated the same type of notice would be required as under the former law and the only real change is that the public hearing is now called a legislative hearing and the public is invited to submit written comments to the clerk.

MOTION: Commissioner Adams moved to approve the revision and amendment to the Cumberland County Zoning Ordinance in its entirety for the purpose of bringing the ordinance into compliance with the newly adopted Chapter 160D State Statute, update the Table of Contents as appropriate and forward to the January 19, 2021 meeting.

SECOND: Commissioner Council

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

J. Award for Building Enclosure Repairs Bid Tab

BACKGROUND

Bids were advertised, requested, and received for three weatherproofing projects at three different County facilities:

- Building Maintenance Facility (Recoat metal roof)
- Bordeaux Library (Close gap in wood trim, seal windows, replace one window)
- West Regional Library (Water repellant to glulam beams and decking/sealant repairs)

Only one bid was received. Fleming and Associates recommends awarding the project to M&E Contracting, Inc. in the amount of \$143,284. The bid is under budget, and funding is available to proceed with this work.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the following and requests this item be moved forward to the January 19, 2021 Board of Commissioners' Meeting Consent Agenda.

1. Approval of the Building Enclosure Repairs Bid Tab to include the base bid and alternate 1 & 2 for a total of \$143,284
2. Award the project to the lowest most responsible and responsive Bidder, M&E Contracting, Inc.

Mr. Jackson presented the background information and recommendation/propose action recorded above.

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- MOTION: Commissioner Lancaster moved to approve the building enclosure repairs bid tab to include the base bid and alternate 1 & 2 for a total of \$143,284, award the project to the lowest most responsible and responsive Bidder, M&E Contracting, Inc., and forward to the January 19, 2021 meeting as a consent agenda item.
- SECOND: Commissioner Stewart

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

- K. North Carolina Department of Agriculture and Consumer Services, Division of Soil and Water Conservation, District (Cumberland) Master Agreement - Government – Contract # 21-035-4029 and Associated Budget Ordinance Amendment #BR 210038

BACKGROUND

The purpose of this contract is to establish the procedures for the North Carolina Department of Agriculture and Consumer Services to provide matching funds and support for technical assistance (TA) to the Grantee, the Cumberland County Soil & Water Conservation District. This contract is funded by State appropriations. Soil & Water District staff time is being offered as in-kind services. In-kind staff hours will be tracked and reported as required. No direct County dollars are being requested. Funds awarded under this contract must be used for the purpose for which they are intended and will expire June 30, 2023.

RECOMMENDATION / PROPOSED ACTION

The Cumberland Soil and Water District Board recommends approval of the Master Agreement and associated Budget Ordinance Amendment #BR 210038. Staff requests this item be moved forward as a Consent Agenda item to the January 19, 2021 Board of County Commissioners' Regular Meeting.

Mr. Jackson presented the background information and recommendation/propose action recorded above.

- MOTION: Commissioner Adams moved to approve the Master Agreement and associated Budget Ordinance Amendment #BR 210038, and forward to January 19, 2021 meeting as a consent agenda item.
- SECOND: Commissioner Lancaster

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

- L. North Carolina Department of Agriculture and Consumer Services Division of Soil & Water Conservation Watershed Restoration Project - Government Contract #19-091- 4086 and Associated Budget Ordinance Amendment # BR210096

BACKGROUND

The purpose of this contract between the State and Cumberland County is to implement A Watershed Restoration Project for needed repairs to streams and drainage ways resulting from hurricanes and subsequent flooding. This contract is funded by state appropriations and has

previously been presented as a notice grant award for hurricane-related projects. Funds awarded under this contract must be used for the purposes for which they are intended.

The total amount awarded for the 37 projects listed in Attachment B is \$855,027. The County will have until December 31, 2022 to complete the projects.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the Watershed Restoration Project Contract and Associated Budget Ordinance Amendment # BR210096. Staff requests this item be placed on the January 19, 2021 Board of Commissioners' Meeting agenda for consideration as a consent item.

Mr. Jackson referenced the background information and recommendation/propose action recorded above.

MOTION: Commissioner Lancaster moved to approve the Watershed Restoration Project contract and associated Budget Ordinance Amendment # BR210096, and forward to the January 19, 2021 meeting as a consent agenda item.

SECOND: Commissioner Stewart

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

M. Legal Requirements for Appointment of Members to the Tourism Development Authority

BACKGROUND

The information below was presented at the November 12, 2020, Agenda Session. At the January 4, 2021, Regular Meeting, the Board asked this be placed back on an agenda session for further discussion. Commissioner Keefe asked about the other appointees to the TDA, in addition to the hotel representatives discussed below. The other appointees are the President of the Fayetteville Area Chamber of Commerce, the County manager, and one member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.

The county attorney advises that the Board may implement any practice deemed appropriate to make the TDA appointments for the hotel representatives and the public member. The Board may continue to rely on the TDA Board to recommend appointees, it may use the system in place by which persons interested in being appointed submit a standard application through the Clerk, or it may develop a different process specifically for the TDA Board.

From November 12, 2020, Agenda Session:

The Board has asked for guidance on the legal requirements for the representatives of hotels that must be appointed to the Tourism Development Authority. The requirements are set out in Section 7-323.4 of the County Code and mirror the local act that authorized the Board to establish the Tourism Development Authority. The relevant portion of Section 7-323.4 reads as follows:

The authority shall be governed by a board of directors 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 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 board of commissioners.

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The literal language of this statute and ordinance cannot be followed because the language does not establish how the hotels and motels can make these nominations. Historically, the nominations have been made by the TDA Board, and that Board has three other members that are not affiliated with hotels or motels. The TDA Board has attempted to nominate persons who have some ownership interest in hotels or motels with the stated numbers of rooms. The legal requirement is only that two representatives be nominated by each of the groups of the hotels and motels. When words are not defined by a statute, the courts apply the dictionary definition to them. The Merriam-Webster definition of representative as a noun is (1) one that represents another or others and (2) a typical example of a group, class, or quality. The language of the statute does not state that the representatives be representative of the group of hotels and motels that nominate them. It simply states that they be nominated by the hotels and motels. By this language, the hotels and motels can nominate anyone as their representative. Because the mechanism for the hotels and motels to make this nomination is not established, the TDA board can nominate anyone as the representatives of these groups of hotels and motels. Because the statute does not give the authority for nomination to the TDA board, the Board of Commissioners can elect whether to follow the TDA Board's nominations in making these appointments.

RECOMMENDATION / PROPOSED ACTION

No action needed.

Chairman Evans stated he asked Commissioner Adams to lead a committee to make recommendations on how to address this.

5. OTHER ITEMS

There were no other items of business.

6. MONTHLY REPORTS

A. Community Development Block Grant - Disaster Recovery (CDBG-DR) Update

BACKGROUND

Cumberland County, in partnership with the North Carolina Office of Recovery & Resiliency (NCORR), is implementing a Community Recovery Infrastructure activity funded through the Community Development Block Grant Disaster Recovery Program. The attached report is an update on the status of the activity (Robin's Meadow Permanent Supportive Housing) undertaken by Cumberland County.

RECOMMENDATION / PROPOSED ACTION

No action is needed. This item is provided for informational purposes only.

CUMBERLAND COUNTY DISASTER RECOVERY PROGRAMS UPDATE FOR THE JANUARY 12, 2021 BOARD OF COMMISSIONERS' AGENDA SESSION

Status as of December 31, 2020:

Milestones/Activities:

- NCORR executed SRA with County December 17, 2019;
- Robins Meadow Permanent Supportive Housing Project/Community Recovery Infrastructure – received project specific award letter January 23, 2020;
- DRA-17 & HMGP Projects – County completed acquisition and demolition of 10 properties;
- Robins Meadow Permanent Supportive Housing Project/Community Recovery Infrastructure - A/E Services – The Wooten Company is providing construction administration services and

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completing the construction document phase. The firm had submitted documents to City of Fayetteville Technical Review Committee and Engineering Review Committee to complete the final review process;

- The Wooten Company submitted a revised project schedule. Community Development submitted a request to NCORR to extend the deadline to obligate funds to March 9, 2021. Invitation to Bids for the construction of the project are expected to be posted within the next month;
- A letter (dated July 28, 2020) was sent to NCORR requesting additional CDBG-DR funds in the amount of \$1,000,000 to cover construction and supportive services. A follow-up was made with NCORR regarding the status of the request and Community Development had to submit a revised letter (dated October 21, 2020) to clarify the amount requested. Community Development is still waiting to receive a response from NCORR regarding the status of the request; and
- NCORR held a technical assistance session with Community Development Staff (Sylvia McLean and Dee Taylor) on December 16, 2020 to ensure Community Development is carrying out the requirements of the agreement and the CDBG-DR program. NCORR staff included Dan Blaisdell, Bill Blankenship, Joe Brook, Mary Glasscock, Tracey Colores, and Kristina Cruz. The construction project manual prepared by The Wooten Company was sent to NCORR for review.

Current Staffing:

- State POC: John Ebbighausen – Director of Disaster Recovery Programs, NC Office of Recovery & Resiliency (NCORR); Mary Glasscock; Infrastructure Manager (NCORR)
- Cumberland County:
 - o Sylvia McLean, P.T. Community Development (CD) Consultant

B. Community Development Update

BACKGROUND

This report provides a quarterly update on projects and activities being implemented through the Community Development Department for the Program Year period beginning July 1, 2020 and ending June 30, 2021. The funding sources used to carry out the projects and activities include the Community Development Block Grant (CDBG), Home Investment Partnerships Program (HOME), Continuum of Care (CoC) Program, CDBG- CV, and general funds.

RECOMMENDATION / PROPOSED ACTION

No action is needed. This item is provided for information purposes only.

COMMUNITY DEVELOPMENT UPDATE FOR THE JANUARY 12, 2021 BOARD OF COMMISSIONER'S AGENDA SESSION

Projects Status as of December 31, 2020

FUNDING SOURCES

- Community Development Block Grant (CDBG)
- Home Investment Partnerships Program (HOME)
- Continuum of Care Program
- General Funds

PROJECTS AND ACTIVITIES FOR JULY 1, 2020 – JUNE 30, 2021 FUNDING CYCLE

Public Services (Total awards = \$575,000 in CDBG funds)

- Better Health of Cumberland County (\$80,000) - to provide prescription medication, eye exams, eyeglasses, dental extractions, and transportation assistance to low to moderate income persons.

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- Cape Fear Valley Hospital / Cumberland County Medication Access Program (\$30,000) - For prescription medication and supplies. Will serve low to moderate income persons.
- Cumberland HealthNET (\$80,000) - For two Homeless Coordinated Entry Specialists positions, supplies, and printing.
- Endeavors (\$95,000) - To provide case management, rent/mortgage assistance, and utility payment assistance for those who are homeless or at-risk of being homeless.
- Fayetteville Urban Ministry (\$145,000) - For case management, housing assistance, services, and supplies. Will serve those who are homeless or at-risk of being homeless.
- Kingdom Community Development Corporation (\$95,000) - To provide case management, rent/mortgage assistance, and utility payment assistance for those who are homeless or at-risk of being homeless. Agency is located in Spring Lake.
- The Salvation Army (\$50,000) - For shelter operating costs (supplies, rent, utilities, food, and maintenance). Will serve homeless individuals and families.

Note: CDBG funds normally have a cap of 15% of total allocation, which limits the amount that Community Development can award to public service activities. However, for the Program Years 2019 and 2020, the U.S. Department of Housing and Urban Development (HUD) suspended the cap during the COVID-19 crisis. This allowed Community Development to fund more agencies that provide human services such as rental assistance and health services.

Affordable Housing Development (Total Awarded = \$497,700 in CDBG and \$500,000 in HOME funds)

- Action Pathways (\$113,300) – For rehabilitation of two housing units. Pending environmental review clearance. This project will benefit low to moderate income residents.
- Hillside – FMHA LLC (\$187,400) – Installation of HVAC units at a senior complex. Coordinating with Fayetteville Metropolitan Housing Authority to solicit bids from contractors.
- Kingdom Community Development Corporation (\$197,000 in CDBG and \$500,000 in HOME funds) – For acquisition and construction of affordable housing units located in Spring Lake. Pending environmental review clearance. A notice will be posted regarding no significant impact to the environment. This project will benefit low to moderate income residents.

Special Economic Development Activities

Community Development provided a conditional award letter to an applicant with an allocation amount of \$500,000 pending commitments from other funding sources and environmental review clearance. The estimated number of full-time equivalent jobs to be created is 100, with at least 51 jobs targeting low to moderate income persons.

CDBG-CV Funds (2nd Allocation) – Cumberland County received a second allocation of CDBG-CV funding from HUD in the amount of \$435,210, bringing the total allocation for CDBG-CV funds to \$944,404.

- Small Business Resiliency Program – Application process was reopened and will remain open until funds are no longer available. Awards have been provided to 23 businesses totaling approximately \$206K.
- Public Services – CDBG-CV funds will also be used to fund agencies providing public services. The Department of Public Health has been awarded \$226,000 to expand health services related to COVID-19.
- The remaining CDBG-CV funds will be used towards public services to assist with rental/utility payments and other unmet needs and administration (not to exceed 20% of the total).

OTHER ONGOING PROJECTS AND ACTIVITIES

Housing Rehabs (owner-occupied and rental)

Public Facilities Rehab:

- Myrover-Reese Fellowship Home – serves individuals who are homeless and have a substance use disorder.
- Family Endeavors' Reveille Retreat transitional housing – serves those who are homeless.

Disaster Recovery

Currently have a contract with The Wooten Company for construction documents, bidding, and construction administration in the amount not to exceed \$90,573. The Wooten Company presented the Robin's Meadow design before the Board of Commissioners on June 11, 2020. The contract was approved by the Board on June 15, 2020. The Wooten Company has finalized documents and plans with the Fayetteville Technical Review Committee. Bids for the construction of Robin's Meadow is expected to be released within the next month.

Fayetteville / Cumberland County Continuum of Care (CoC) on Homelessness

The CoC Board meeting is usually held the second Wednesday of every month at 9:30 a.m.

Robin's Meadow Transitional Housing (Grant Cycle: July 1, 2020 – June 30, 2021) - \$80,517

County-owned property (12 apartment style units) is provided as transitional housing for homeless families with children. Cumberland County Community Development currently serves as grantee but will eventually transfer grantee responsibilities to another agency through a Request for Proposal process.

Safe Homes for New Beginnings (Grant Cycle: December 1, 200 – November 30, 2021) - \$59,957

Community Development currently partners with Family Promise (formerly Cumberland Interfaith Hospitality Network) for the provision of housing units and case management. Community Development is planning to transfer grantee responsibilities to Family Promise, pending the CoC approval.

Emergency Solutions Grant – CV

Cumberland County Community Development serves as the Collaborative Applicant / Lead Agency on behalf of the CoC in the submission of grant applications to the State for Emergency Solutions Grant. Each year the State allocates approximately \$129K for the Fayetteville / Cumberland County area. This year, the State allocated an additional amount of ESG (COVID-19) funding in the amount of \$440,882 during round 1 of allocations and \$1,324,147 during round 2 of allocations to be used for Crisis Response (shelter operations & services), Housing Stability (rapid rehousing and homeless prevention), and street outreach. Community Development posted a Request for Proposal during both rounds of allocations on behalf of the CoC. All project applications were submitted along with the collaborative application by July 17th to the State for round 1. The State awarded ESG-CV funding to Endeavors in the amount of \$334,442 for housing stability and to the Salvation Army in the amount of \$106,400 for crisis response. Round 2 is still pending submission of applications to the State.

Homeless Initiative (City and County) - The next Homeless Committee meeting is TBD.

C. Financial Report

BACKGROUND

The financial report is included which shows the results of the general fund for fiscal year 2021, November year-to-date. Results of fiscal year 2020 will be added upon approval of the audit. Additional detail has been provided on a separate page explaining any percentages that may appear inconsistent with year-to-date budget expectations.

RECOMMENDATION / PROPOSED ACTION

For information and discussion purposes only.

County of Cumberland General Fund Revenues					
REVENUES	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF November 30, 2020	PERCENT OF BUDGET TO DATE	*
Ad Valorem Taxes					
Current Year	\$ 165,908,675	\$ 165,908,675	\$ 84,049,538	50.7% ⁽¹⁾	
Prior Years	897,000	897,000	912,677	101.7%	
Motor Vehicles	19,955,512	19,955,512	7,617,830	38.2% ⁽²⁾	
Penalties and Interest	712,000	712,000	113,289	15.9%	
Other	1,025,000	1,025,000	359,648	35.1%	
Total Ad Valorem Taxes	188,498,187	188,498,187	93,052,982	49.4%	
Other Taxes					
Sales	41,542,711	41,542,711	8,757,416	21.1% ⁽³⁾	
Real Estate Transfer	1,450,000	1,450,000	738,891	51.0%	
Other	959,000	959,000	121,618	12.7%	
Total Other Taxes	43,951,711	43,951,711	9,617,925	21.9%	
Unrestricted & Restricted Intergovernmental Revenues	68,389,413	72,218,695	20,729,007	28.7% ⁽⁴⁾	
Charges for Services	13,072,456	13,072,456	3,771,126	28.8% ⁽⁵⁾	
Other Sources (includes Transfers In)	1,710,608	1,802,837	403,951	22.4%	
Lease Land CFVMC	4,012,056	4,012,056	3,912,050	97.5%	
Total Other	5,722,664	5,814,893	4,316,001	74.2%	
Total Revenue	\$ 319,634,431	\$ 323,555,942	\$ 131,487,041	40.6%	
Fund Balance Appropriation	8,663,701	18,151,374	-	0.0%	
Total Funding Sources	\$ 328,298,132	\$ 341,707,316	\$ 131,487,041	38.5%	

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County of Cumberland General Fund Expenditures					
DEPARTMENTS	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF November 30, 2020	PERCENT OF BUDGET TO DATE	**
Governing Body	\$ 674,975	\$ 693,619	\$ 296,993	42.8%	
Administration	1,814,947	1,835,664	602,678	32.8%	
Public Affairs/Education	885,902	898,331	291,326	32.4%	
Human Resources	1,009,875	1,028,519	357,826	34.8%	
Print, Mail, and Design	756,378	764,664	391,928	51.3%	
Court Facilities	156,220	156,220	21,632	13.8% ⁽¹⁾	
Facilities Maintenance	1,202,491	1,419,688	516,161	36.4%	
Landscaping & Grounds	702,394	727,182	293,578	40.4%	
Carpentry	228,058	234,273	85,590	36.5%	
Facilities Management	1,523,436	1,536,480	566,143	36.8%	
Public Buildings Janitorial	870,951	1,040,844	384,417	36.9%	
Central Maintenance	672,722	711,468	250,839	35.3%	
Information Services	5,323,420	6,073,408	2,175,511	35.8%	
Board of Elections	1,673,589	1,853,283	1,149,121	62.0%	
Finance	1,418,140	1,449,215	549,116	37.9%	
Legal	807,290	936,155	210,155	22.4% ⁽²⁾	
Register of Deeds	2,526,950	3,015,363	875,316	29.0%	
Tax	6,271,825	6,466,523	2,171,082	33.6%	
General Government Other	7,003,558	10,393,117	1,784,079	17.2% ⁽³⁾	
Sheriff	53,395,158	54,638,886	18,761,730	34.3%	
Emergency Services	4,310,596	4,501,597	1,632,356	36.3%	
Criminal Justice Pretrial	588,662	603,163	231,257	38.3%	
Youth Diversion	35,671	35,671	11,873	33.3%	
Animal Services	3,484,642	3,786,204	1,277,489	33.7%	
Public Safety Other (Medical Examiners, NC Detention Subsidy)	1,213,209	1,213,209	415,210	34.2%	
Health	24,301,667	26,111,991	8,791,964	33.7%	
Mental Health	5,519,255	5,524,489	1,406,658	25.5% ⁽⁴⁾	
Social Services	63,278,940	63,894,542	20,248,428	31.7%	
Veteran Services	452,713	465,142	173,088	37.2%	

County of Cumberland General Fund Expenditures					
DEPARTMENTS	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF November 30, 2020	PERCENT OF BUDGET TO DATE	**
Child Support	5,595,639	5,593,567	2,016,816	36.1%	
Spring Lake Resource Administration	34,542	34,542	9,679	28.0% ⁽⁵⁾	
Library	10,036,208	10,503,260	3,853,924	36.7%	
Culture Recreation Other (Some of the Community Funding)	260,569	260,569	48,875	18.8% ⁽⁶⁾	
Planning	3,271,297	3,335,814	1,166,360	35.0%	
Engineering	585,162	592,711	146,547	24.7% ⁽⁷⁾	
Cooperative Extension	799,384	809,742	242,904	30.0%	
Location Services	257,796	269,929	83,370	30.9%	
Soil Conservation	151,537	1,656,512	61,129	3.7% ⁽⁸⁾	
Public Utilities	87,602	94,554	36,313	38.4%	
Economic Physical Development Other	20,000	20,000	20,000	100.0%	
Industrial Park	2,212	3,408	1,105	32.4%	
Economic Incentive	461,947	709,947	28,749	4.0% ⁽⁹⁾	
Water and Sewer	250,000	400,189	54,391	13.6% ⁽¹⁰⁾	
Education	94,411,029	94,411,029	38,680,679	41.0%	
Other Uses:					
Transfers Out	19,969,574	21,002,633	459,308	2.2% ⁽¹¹⁾	
TOTAL	\$ 328,298,132	\$ 341,707,316	\$ 112,833,696	33.0%	

Expenditures by Category	FY20-21 ADOPTED BUDGET	FY20-21 REVISED BUDGET	YTD ACTUAL (unaudited) AS OF November 30, 2020	PERCENT OF BUDGET TO DATE	
Personnel Expenditures	\$ 149,112,328	\$ 149,309,907	\$ 53,516,203	35.8%	
Operating Expenditures	158,589,325	169,418,157	58,383,371	34.5%	
Capital Outlay	626,905	1,976,619	474,814	24.0% ⁽¹²⁾	
Transfers To Other Funds	19,969,574	21,002,633	459,308	2.2% ⁽¹¹⁾	
TOTAL	\$ 328,298,132	\$ 341,707,316	\$ 112,833,696	33.0%	

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Fiscal Year 2021 - November Year-to-Date Actuals (Report Run Date: December 22, 2020)	
Additional Detail	
General Fund Revenues	
*	
(1)	Current Year Ad Valorem 50.7% - The bulk of revenues are typically recorded between November - January.
(2)	Motor Vehicles 38.2% - YTD Actual reflects 4 months of collections.
(3)	Sales Tax 21.1% - There is a <u>three month</u> lag. YTD Actual reflects 2 months of collections.
(4)	Unrestricted/Restricted Intergovernmental 28.7% - There is typically a <u>one to two month</u> lag in receipt of this funding.
(5)	Charges for Services 28.8% - The largest component of charges for services is revenue from the Board of Ed for security at 19% of budget. Only 6% of that revenue has been billed/collected to date.
General Fund Expenditures	
**	
(1)	Court Facilities 13.8% - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
(3)	Legal - 22.4% - Personnel costs are low <u>as a result of</u> multiple vacancies in the department, in the early part of the fiscal year.
(3)	General Government Other 17.2% - The revised budget includes expenditures allocating \$4.7M of CARES Act freed-up capacity funding that has not yet been utilized.
(4)	Mental Health 25.5% - Expenditures reflect one quarterly payment to Alliance Health.
(5)	Spring Lake Resource Administration 28.0% - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
(6)	Culture Recreation Other 18.8% - Expenditures are in line with past fiscal year trends at this point in the fiscal year.
(7)	Engineering 24.7% - Personnel costs are low <u>as a result of</u> vacancies in the department.
(8)	Soil Conservation 3.7% - Approximately \$1.5M in USDA Grant funds were budgeted recently and are unexpended.
(9)	Economic Incentive 4.0% - Economic incentives are paid when the company complies.
(10)	Water and Sewer 13.6% - A re-appropriation in the amount of \$150,189 was approved by the BOCC on 9/8/20 but not yet utilized.
(11)	Transfers Out 2.2% - Transfers are often prepared toward the end of the fiscal year.
(12)	Capital Outlay 24.0% - Most of these capital items are typically purchased in the second and third quarters of the fiscal year.

D. Project Updates

BACKGROUND

Please find attached the monthly project update report for your review.

RECOMMENDATION / PROPOSED ACTION

No action is requested. This is for information only.

MONTHLY PROGRESS REPORT				
Project Location	Contract Amount	Project Status	Contract Start Date	Contract Duration
226 Bradford Renovation (Renovate Training/Conf. Rm)	\$100,000.00	Preliminary structural analysis performed by Fleming Associates. Requesting proposal for full design of renovation.		
Spring Lake Family Resource Center, Chiller Replacement	\$255,000.00	Design complete, bidding this month		
LEC Elevator Modernization Project	\$1,362,557.00	Work on all 3 elevators is complete. Wiring between Automatic Transfer Switch and Fire Panel still outstanding. A change order is being processed to add security cameras and key-card access to the elevators.	4/6/2020	179 days
BMF, Bordeaux Library, West Regional Library	\$143,284.00	Project awarded for various improvements to all 3 buildings (BMF - recoat metal roof, Bord. - close gap in wood trim, seal windows, replace 1 window, WR - water repellant on glulam beams, decking repairs)		
Crown Coliseum Cooling Tower Replacement	\$649,000.00	Cooling Towers operational, project substantially complete. Change order work pending for drain piping.	5/18/2020	93 days
Crown Coliseum Parking Lot Improvement Project (Areas 1, 2, & 3)	\$714,979.70	Asphalt paving and sidewalk replacement complete. Pavement striping still <u>outstanding</u> (awaiting <u>warmer temperatures</u>).	3/16/2020	120 days
Crown Coliseum ADA Bathroom and Ticket Booth Renovations	\$541,217.00	Overall construction approximately 60% complete. Plumbing in all restrooms and millwork 95% completed. Toilet partitions and ticket booth work ongoing	9/14/2020	180 days

E. Health Insurance Update

BACKGROUND

As of July 1, 2019, retirees who are 65 and older became covered by a County funded fully insured plan through AmWINS. All other covered members remained insured by the County’s self-funded plan through BCBS. The information provided below and within the graphs has been updated to include the monthly premium amount paid to fund the fully insured plan and the actual monthly claims amounts for all other covered members. Combining these amounts for FY20 and beyond is necessary to ensure a complete picture when comparing the claims results to prior years.

Total health insurance claims plus the fully insured premium amount for FY21 are down 19.26% for the month of November as compared to the same month in FY20. To provide some perspective, below is the five-month average for the past five fiscal years. This average represents the average monthly year-to-date claims for each fiscal year and includes the fully insured premium for fiscal years 2020 and 2021. Additionally, graphs are provided in the attachment to aid in the analysis.

Year to date claims and premium payment through November	\$7,498,091
Less year to date stop loss credits	<u>(\$150,000)</u>
Net year to date claims and premium payment through November	\$7,348,091

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Average monthly claims and fully insured premium (before stop loss) per fiscal year November:

FY17 \$1,390,454

FY18 \$1,446,668

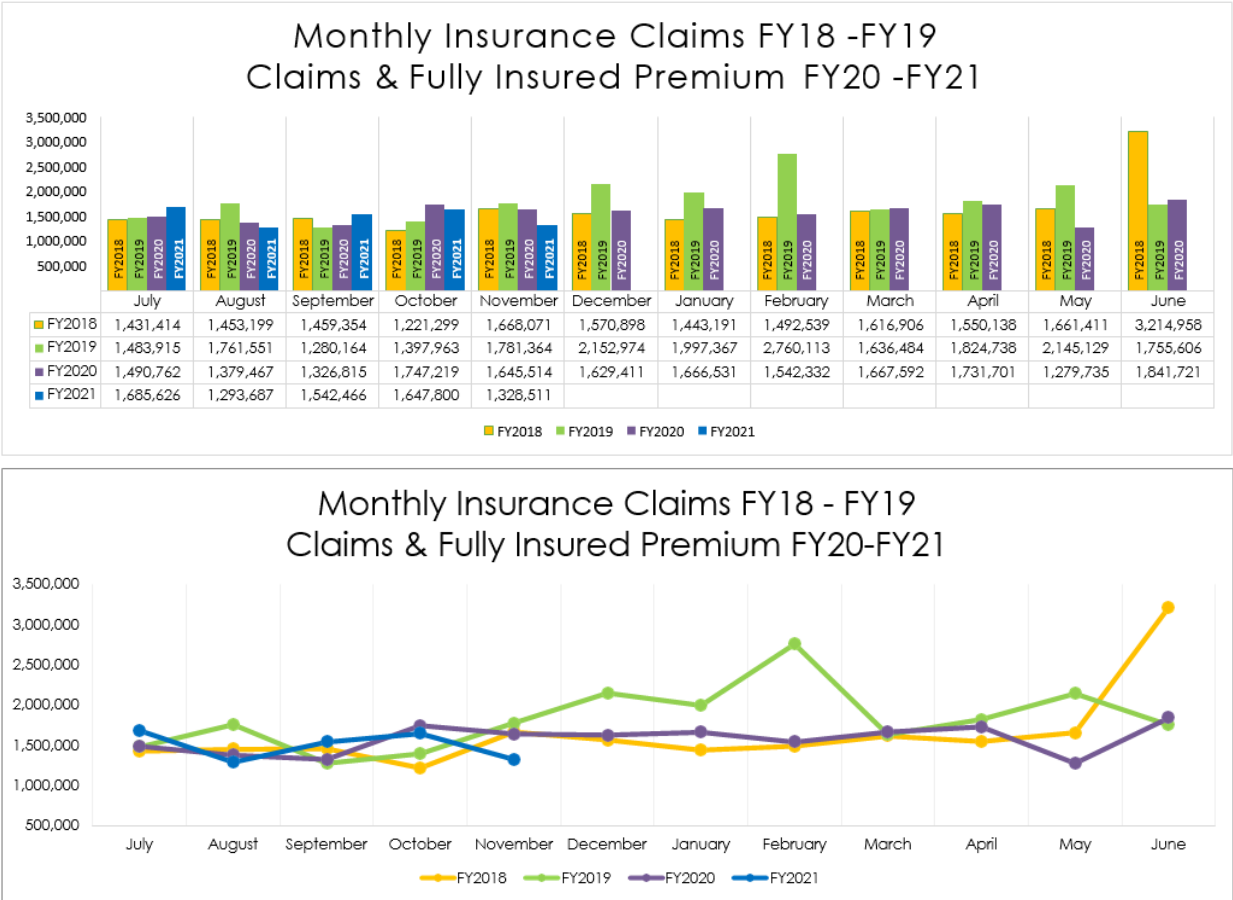
FY19 \$1,540,991

FY20 \$1,517,955

FY21 \$1,499,618

RECOMMENDATION / PROPOSED ACTION

For information only – no action needed.



7. CLOSED SESSION:
- A. Attorney-Client Matter(s) Pursuant to NCGS 143.318.11(a)(3)
- MOTION: Commissioner Council moved to go into closed session for Attorney-Client Matter(s) Pursuant to NCGS 143.318.11(a)(3).
- SECOND: Commissioner Stewart
- When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.
- VOTE: UNANIMOUS (6-0)

Chairman Evans called for a five-minute recess to ensure the public did not have access to the remote meeting while in closed session.

Following closed session public access to the remote meeting was restored after which the following motion was offered.

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MOTION: Commissioner Council moved to come out of closed session.
SECOND: Commissioner Stewart

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Council moved to adjourn.
SECOND: Commissioner Stewart

When called on for their vote, Commissioners Lancaster, Keefe, Council, Evans, Adams and Stewart voted in favor.

VOTE: UNANIMOUS (6-0)

There being no further business, the meeting adjourned at 3:20 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board