

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, MAY 17, 2021 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR MEETING MINUTES

PRESENT: Commissioner Charles Evans, Chairman (departed 7:15 p.m.)
Commissioner Glenn Adams, Vice Chairman
Commissioner Michael Boose (arrived 6:50 p.m.)
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
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Jermaine Walker, Engineering and Infrastructure Director
Devon Newton, Community Development Department
Rawls Howard, Planning and Inspections Director
Robert Van Geons, Fayetteville Cumberland Economic Development
Corporation President/CEO
Candice H. White, Clerk to the Board

ABSENT: Commissioner Jeannette Council

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Stewart provided the invocation followed by the Pledge of Allegiance to the American flag.

INTRODUCTION

Cumberland County Public Library Director Faith Phillips

Amy Cannon, County Manager, introduced Faith Phillips as the new Public Library Director and provided highlights of her background and experience. Ms. Phillips briefly commented on her role as the Public Library Director. Ms. Cannon also acknowledged the attendance of Irene Grimes, Library Board of Trustees.

RECOGNITIONS

Commissioner Jeannette Council on Receiving the 2021 North Carolina Black Alliance Trailblazers Award

Commissioner Council was unable to be present for the recognition.

Cumberland County Cares Award - Demetria Murphy

Vice Chairman Adams presented the Cumberland County Cares Award to Demetria Murphy and stated he Cumberland County Cares Award recognizes individuals, groups or agencies that have had a positive effect on the community through their volunteer efforts.

Vice Chairman Adams stated Ms. Murphy has certainly made a positive impact on our community. The individual who nominated Ms. Murphy for the Cumberland County Cares Award described her as a unique and inspiring woman who speaks passionately about her volunteer efforts and her efforts to help those who are looking for a second chance in life.

Vice Chairman Adams stated Ms. Murphy serves on the Fayetteville Cumberland Re-Entry Council. Her volunteer work with the Re-Entry Council helps support

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men and women who have been through the judicial system. Vice Chairman Adams stated he applauds Ms. Murphy's efforts with the Re-Entry Council to help these individuals make a positive transition toward a more meaningful and productive life. Through the Fayetteville Cumberland Re-Entry Council, Ms. Murphy also founded an organization called the Youth Diverse Intervention Group. This group is working to help promote positive influence and action in the lives of our young people. Ms. Murphy also volunteers with the Veterans Empowering Veterans Organization and helped this group organize a much-needed food bank. Vice Chairman Adams noted Ms. Murphy's educational achievement and stated she is currently working on her doctorate degree. Ms. Murphy provided comments about her life, recognized friends and family who have supported her and the need to bridge the gap between prison and the return to the community and the workforce.

PUBLIC COMMENT PERIOD

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

Rev. Floyd Wicker – Rev. Wicker expressed concern about racial justice, racism and systemic oppression, and stated strides are being made across the country in these areas. Rev. Wicker urged the Board to actively address his concerns and also make Juneteenth a paid holiday for all employees.

Stella King – Ms. King stated she was present representing residents of the Cedar Creek community who have concerns about the lack of clean water. Ms. King stated this has been going on for a long time and the current situation with water is not acceptable. Ms. King stated the Cedar Creek community needs a line that provides clean safe water.

Pastor Mark Rowden – Pastor Rowden stated he was present representing citizens affected by GenEx. Rev. Rowden invited the Board to the next Town Hall meeting in Cedar Creek to address the issue.

Greg McLean – Mr. McLean stated Gray's Creek residents have the same concerns with water as residents in the Cedar Creek community. Mr. McLean stated all the wells in his family are contaminated and spoke to family members who have passed away due to cancer. Mr. McLean stated Dupont's effort appear to be nothing more than show.

Amy Cannon, County Manager, stated at the request of Chairman Evans, she would ask to have Item 4.A. Consideration of Commissioner Meeting Room Update removed from the agenda and forwarded to the June 10, 2021 Agenda Session meeting for additional information and discussion.

1. APPROVAL OF AGENDA

MOTION: Commissioner Boose moved to approve the agenda with Item 4.A. removed and forwarded to the June 10, 2021 Agenda Session meeting for additional information and discussion.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (6-0)

2. CONSENT AGENDA

A. Approval of May 3, 2021 Regular Meeting Minutes

B. Approval of Declaration of Surplus County Property and Authorization to Accept Insurance Settlement and Budget Ordinance Amendment #B211074

BACKGROUND

DATE OF ACCIDENT: MARCH 1, 2021

VEHICLE: 2020 FORD EXPLORER

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VIN: 1FM5K8AC4LGA98111

FLEET#: FL2028

DEPARTMENT: Sheriff's Office

SETTLEMENT OFFER: \$28,000

INSURANCE COMPANY: Progressive Group of Insurance Companies

This is a total loss settlement offer.

RECOMMENDATION / PROPOSED ACTION

Risk Management recommends that the Board of Commissioners:

1. Declare the vehicle described above as surplus.
2. Authorize the Accounting Supervisor to accept \$28,000 as settlement.
3. Allow Progressive to take possession of the wrecked (surplus) vehicle.
4. Approve Budget Ordinance Amendment BR#211074 in the amount of \$28,000 recognizing the insurance settlement. Please note this amendment requires no additional county funds.

C. Approval to Pay Prior Year Invoices

BACKGROUND

There is a period of time after June 30th of fiscal year-end in which transactions of the prior fiscal year will continue to be processed (typically the third week in August). After that cutoff date has passed, a department may still receive a vendor invoice that is payable for services rendered, or goods that were received in the prior fiscal year. When that occurs, approval by the Board of Commissioners is required for payment. The following departmental invoices meet that criteria:

Health Department

Vendor: Valley Radiology

Services Rendered: November 2019

Total Amount: \$117.76

Health Department

Vendor: Cape Fear Valley OB/GYN

Services Rendered: March 2020

Total Amount: \$161.66

Print Mail & Design Services

Vendor: Systel

Services Rendered: June 2020

Total Amount: \$271.51

Staff have verified these invoices have not been paid. There are sufficient funds within the fiscal year 2021 departmental budget to cover these expenses.

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay prior year invoices for Health Department totaling \$279.42 and Print Mail & Design Services totaling \$271.51.

D. Approval of Proposed Additions to the State's Secondary Road System

BACKGROUND

The North Carolina Department of Transportation has received petitions requesting the following streets be placed on the State's Secondary Road System. NCDOT has investigated these streets and their findings are that the below listed streets are eligible for addition to the State's System.

Ritson Lane (SR 4184 Ext.)

N. Kilchattan Drive

S. Kilchattan Drive

Whirlwind Road

Hunting Lodge Road

RECOMMENDATION / PROPOSED ACTION

Based on NCDOT's recommendation, approve the above listed streets for addition to the State's Secondary Road System.

E. Acceptance of Offer to Purchase Surplus Property Located at 701 North Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with PIN 0437-78-0030 located at 701 North Street, Fayetteville, at a tax foreclosure sale in 2011 for a purchase price of \$5,160.41. The property is zoned MR5 with a tax value of \$3,375.00. The City conveyed its interest in the property to the County on May 6, 2021, by a quitclaim deed recorded in Book 11115 at Page 12. Based on the GIS Mapping and the tax records, there is no structure on the lot. Raymond King, on behalf of King Construction and Development Company, Inc., made an offer to purchase the property for the total amount of \$5,160.41. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

The County and the City of Fayetteville acquired the real property with PIN 0437-78-0030 located at 701 North Street, Fayetteville, at a tax foreclosure sale in 2011 for a purchase price of \$5,160.41. The property is zoned MR5 with a tax value of \$3,375.00. The City conveyed its interest in the property to the County on May 6, 2021, by a quitclaim deed recorded in Book 11115 at Page 12. Based on the GIS Mapping and the tax records, there is no structure on the lot. Raymond King, on behalf of King Construction and Development Company, Inc., made an offer to purchase the property for the total amount of \$5,160.41. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

F. Acceptance of Offer to Purchase Surplus Property Located at 703 North Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with PIN 0437-78-0035 located at 703 North Street, Fayetteville, at a tax foreclosure sale in 2009 for a purchase price of \$10,747.87. The property is zoned MR5 with a tax value of \$3,375.00. The City conveyed its interest in the property to the County on May 6, 2021, by a quitclaim deed recorded in Book 11115 at Page 12. Based on the GIS Mapping and the tax records, there is no structure on the lot. Raymond King, on behalf of King Construction and Development Company, Inc., made an offer to purchase the property for the total amount of \$10,747.87. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

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

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

Take notice that the Board of Commissioners finds the real property with PIN 0437-78-0035 located at 703 North Street, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$10,747.87. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

G. Acceptance of Offer to Purchase Surplus Property Located at 869 West Orange Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with PIN 0437-59-5574, being Lot 75 and Part of Lots 74 & 76, Pleasant View Park, Plat Book 10, Page 76, located at 869 West Orange Street, Fayetteville, at a tax foreclosure sale in 2008 for a purchase price of \$5,316.89. The property is zoned MR5 with a tax value of \$3,000.00. The City conveyed its interest in the property to the County on May 6, 2021, by a quitclaim deed recorded in Book 11115 at Page 12. Based on the GIS Mapping and the tax records, there is no structure on the lot. Carmen Hunter-Cameron made an offer to purchase the property for the total amount of \$5,316.89. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

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

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

Take notice that the Board of Commissioners finds the real property with PIN 0437-59-5574, being Lot 75 and Part of Lots 74 & 76, Pleasant View Park, Plat Book 10, Page 76, located at 869 West Orange Street, Fayetteville, NC, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$5,316.89. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

H. Acceptance of Offer to Purchase Surplus Real Property Located At 1229 Hamlet Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the property with PIN 0436-36-5390, being Part of Lot 7, Block C, Tolar Hart & Holt Mill Village, Plat Book 10, Page 64, located at 1229 Hamlet Street, Fayetteville, at a tax foreclosure sale in 2007 for a purchase price of \$7,067.84. The property is zoned SF6 with a tax value of \$7,000.00. The City conveyed its interest in the property to the County on May 6, 2021, by a quitclaim deed recorded in Book 11115 at page 12. Based on the GIS Mapping and the tax records, there is no structure on the lot. Calvin B. Freshley made an offer to purchase the property for the total amount of \$7,067.84. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

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

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

Take notice that the Board of Commissioners finds the real property with PIN 0436-36-5390, being Part of Lot 7, Block C, Tolar Hart & Holt Mill Village, Plat Book 10, Page 64, located at 1229 Hamlet Street, Fayetteville, is not needed for governmental purposes and proposes to accept an

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offer to purchase the property for \$7,067.84. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

I. Approval of Sale of Surplus Real Property Located at 1515 Pierce Street, Fayetteville

BACKGROUND

On April 5, 2021, the Board adopted a resolution of its intent to accept the offer of Michael Nepstad and wife, Susan Nepstad to purchase property with PIN 0427-91-0414, being Lots 15 & 16 Lakeview Heights, Plat Book 12, Page 48, located at 1515 Pierce Street, Fayetteville, for \$9,388.83, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned MR5, with a tax value of \$26,800.00. Based on the County GIS Parcel View System and the tax records, there is a structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on April 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

J. Approval of Sale of Surplus Real Property Located at 4900 Panda Street, Fayetteville

BACKGROUND

On April 5, 2021, the Board adopted a resolution of its intent to accept the offer of Gladys Heredia to purchase property with PIN 0413-45-4990, being Lot 86, Gilbert Sands, Sec. 8, Plat Book 65, Page 84, located at 4900 Panda Street, Fayetteville, for \$10,139.08, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned RR, with a tax value of \$6,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on April 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

K. Approval of Sale of Surplus Real Property Located at 5906 St. Micheals Drive, Fayetteville

BACKGROUND

On April 5, 2021, the Board adopted a resolution of its intent to accept the offer of Carmen M. Heredia to purchase property with PIN 0454-51-2694, being Lot 40, Kellys Landing, Sec. 3, Plat Book 63, Page 7, located at 5906 St. Micheals Drive, Fayetteville, for \$20,787.47, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned RR, with a tax value of \$71,500.00. Based on the County GIS Parcel View System and the tax records, there is a structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on April 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

County attorney recommends the Board accept this offer and authorize the Chair or the County

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Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

L. Approval of Sale of Surplus Real Property Located at 6215 Canadian Avenue, Fayetteville

BACKGROUND

On April 5, 2021, the Board adopted a resolution of its intent to accept the offer of James T. Lewis, Jr. to purchase property with PIN 0442-76-0805, being Lot 100, Twin Oaks, Sec. 4, Part 13, Plat Book 86, Page 117, located at 6215 Canadian Avenue, Fayetteville, for \$2,275.42, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned RR, with a tax value of \$10,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on April 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

M. Approval of Budget Ordinance Amendments for the May 17, 2021 Board of Commissioners' Agenda

BACKGROUND

General Fund 101

1) Law Enforcement Officer (LEO) Separation Allowance – Budget Ordinance Amendment B210846 to appropriate general fund balance to adjust the LEO Separation Allowance due to higher than anticipated supplemental retirement benefit expense in the amount of \$119,400

The Board is requested to approve Budget Ordinance Amendment B210846 to appropriate general fund balance to adjust the Law Enforcement Officer (LEO) Separation Allowance due to higher than anticipated supplemental retirement benefit expense in the amount of \$119,400. The budgeted amount is based on an estimate of expenses each fiscal year. A budget revision is needed due to the estimated actuals being more than was budgeted for FY21.

Please note this amendment requires appropriation of general fund balance.

2) Public Safety Other – Budget Ordinance Amendment B210103 to appropriate fund balance in the amount of \$169,296 for youth detention subsidies

The Board is requested to approve Budget Ordinance Amendment B210103 to appropriate fund balance in the amount of \$169,296 for youth detention subsidies. The North Carolina Youth Detention Subsidy is based on the length of time a Judge remands a juvenile at their discretion. This amount includes projected expenses over the budgeted amount for the remainder of Fiscal Year 2021.

Please note this amendment requires appropriation of general fund balance.

General Fund 101 and Capital Investment Fund 107

3) Sheriff's Office and Vehicle CIF – Budget Ordinance Amendment B211047 to transfer funds from the Cumberland County Sheriff's Office to the Capital Investment Fund for vehicle taxes and tags in the amount of \$910

The Board is requested to approve Budget Ordinance Amendment B211047 to transfer funds from the Cumberland County Sheriff's Office to the Capital Investment Fund for vehicle taxes and tags in the amount of \$910. These funds are needed to purchase taxes and tags for two Sheriff's Office vehicles.

Please note this amendment requires no additional county funds.

Intergovernmental Fund 201

- 4) Excise Tax on Deeds – Budget Ordinance Amendment B210136 to budget additional projected revenue in the amount of \$925,826

The Board is requested to approve Budget Ordinance Amendment B210136 to budget additional projected revenue in the amount of \$925,826 representing the excise tax on deeds. This projection is through the remainder of Fiscal Year 2021. This fund was established per GASB 84 at the February 15, 2021 Board of Commissioners Meeting.

Please note this amendment requires no additional county funds.

Federal Drug Forfeiture Fund 204

- 5) Federal Drug Forfeiture – Budget Ordinance Amendment B210042 to recognize additional revenues in the amount of \$160,062

The Board is requested to approve Budget Ordinance Amendment B210042 to recognize additional revenues in the amount of \$160,062. \$35,000 of this increased revenue will be spent on the purchase of an X-Ray Generator and other equipment, \$121,787 of federal drug forfeiture fund balance will be reduced, and \$3,275 of interest revenue will be reduced.

Please note this amendment requires no additional county funds.

Solid Waste Fund 625

- 6) Solid Waste – Budget Ordinance Amendment B210902 to increase Other Post-Employment Benefit (OPEB) expenses to actuarial projections in the amount of \$170,000

The Board is requested to approve Budget Ordinance Amendment B210902 to increase Other Post-Employment Benefit (OPEB) expenses to actuarial projections in the amount of \$170,000.

Please note this amendment requires appropriation of Solid Waste fund balance.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

N. Approval of Cumberland County Board of Commissioners Agenda Session Items

1. Request to Establish Sheriff's Office I.T. Positions Based Upon Contractual Agreements with Hope Mills and Spring Lake and Associated Budget Ordinance Amendment # B211224

BACKGROUND

Attached you will find a memorandum from Sheriff Ennis Wright requesting two Department IT Support Specialist I positions for the Sheriff's Office Information Technology section. The annualized cost of both positions is \$128,884 and the cost for this fiscal year is \$21,481. Personnel costs will be reimbursed by the Town of Hope Mills and Town of Spring Lake per contractual agreements. No additional County funding is required for this action.

This item was presented at the May 13, 2021 Board of Commissioners' Agenda Session.

RECOMMENDATION / PROPOSED ACTION

At the May 13, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed actions below as a Consent Item on the May 17, 2021 Board of Commissioners' agenda:

- 1) Approve the establishment of two new positions in the Sheriff's Office Information Technology section.
- 2) Approve the associated Budget Ordinance Amendment B211224.

2. Health Insurance Plan Changes Related to Pharmacy Rebates

BACKGROUND

The County's benefits brokerage and consulting firm, USI, has been in discussions with BCBS about additional savings that could be realized if the County were to make a negotiated change in the BCBS contract. The recommended changes were presented by Kevin Quinn of USI during the Agenda Session meeting on May 13, 2021 as follows:

- Change the PEPM (per employee per month) admin fee from \$19 to \$33 for a total projected cost of \$769,032 annually
\$33 fee guarantee is for three years
- County shall receive 100% of prescription rebates projected at \$1.8 million for FY2022
The first rebate payment will occur during the third quarter of FY2022

RECOMMENDATION / PROPOSED ACTION

Approval of the BCBS negotiated change to increase the PEPM admin fee from \$19 to \$33 in exchange for receiving quarterly pharmacy rebates, to be effective with plan year beginning July 1, 2021.

3. Extension of the Health and Benefits Brokerage and Consulting Agreement with USI

BACKGROUND

In the fall of 2017, Chernoff Diamond who later merged into USI, began providing employee benefits and brokerage services to Cumberland County after assisting with correcting compliance issues that occurred during that year. In August 2018, the Board of Commissioners agreed to a two-year agreement that is set to expire on December 31, 2021.

Throughout the almost four years of this engagement, USI has been able to assist the County in stabilizing the health insurance fund by making recommendations that have resulted in significant savings for the County without causing employees to pay higher out-of-pocket costs. Examples include adding a carved out, fully insured plan specific to Medicare-aged retirees, and more recently recommending a change to how BCBS pharmaceutical rebates will be distributed.

Therefore, management proposes an additional two-year agreement with USI to allow further stability in the current health and ancillary plans. As with the current agreement, the County is not required to make direct payments to USI. Instead, USI receives commissions remitted by the carriers directly upon payment of premium by the County. USI reported \$263,000 in commissions from all carriers combined, over the past year.

RECOMMENDATION / PROPOSED ACTION

Approval of a two-year agreement extension (July 1, 2021 - June 30, 2023) with USI to provide employee health and benefits brokerage and consulting services.

4. Selection of a State Centric Hazard Mitigation Program Option

BACKGROUND

The North Carolina Department of Public Safety (DPS) - Division of Emergency Management has been approved by FEMA to deliver State Centric administration and technical support for the following programs:

- Hazard Mitigation Grant Program (HMGP)
- Building Resilient Infrastructure in Communities (BRIC)
- Flood Mitigation Assistance (FMA)
- Mitigation Grants appropriated by the North Carolina General Assembly

The State's role as administer will be to:

- Obtain contractors to execute specified work
- Oversee all project work
- Pay all invoiced work
- Close out projects on the sub-applicants behalf

The State is asking potential sub-applicants to opt-in or opt-out of State administration of these programs. Sub-applicants that choose to opt out must prepare and submit a business plan to the Secretary of DPS showing how the sub-applicant will:

- Manage the potential scope of work associated with any of the aforementioned grants
- Identify a point-of-contact for State staff to complete grant-related work
- Explain the sub-applicant's financial and staff capability to complete awarded grant work within the 3-4 year period of performance

Please see section 4 of the attached Plan document for all of the responsibilities of grant management.

Staff does not recommend trying to administer these grants in-house due to the level of complexity, knowledge, experience, and staff time required to adequately deliver the aforementioned programs and close them out.

RECOMMENDATION / PROPOSED ACTION

This item was heard at the May 13, 2021 Board of Commissioners' Agenda Session and was approved to move forward to the May 17, 2021 Board of Commissioners Regular Meeting as a Consent Agenda Item. Staff recommends the Board opt-in to the State Centric Hazard Mitigation Implementation Plan allowing NCDPS to administer hazard mitigation-related grants.

5. Revisions to the Animal Control Ordinance

BACKGROUND

The proposed changes to Chapter 3 of the Cumberland County Ordinance were presented at the May 13, 2021 Agenda Session meeting, along with a recommendation that the Board rescind the Chapter 3 - Animal Control Ordinance from the Cumberland County Code of Ordinances and replace it with the proposed Animal Ordinance.

RECOMMENDATION / PROPOSED ACTION

At the May 13, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed actions below as a Consent Item on the May 17, 2021 Board of Commissioners' Meeting:

1. Rescind Chapter 3 Animals from the current Cumberland County Ordinance
2. Replace Chapter 3 Animals with the proposed Ordinance submitted by the Animal Services Director.

Chapter 3 - ANIMALS^[1]

Footnotes:

--- (1) ---

Editor's note— An ordinance adopted June 17, 2013, amended ch. 3 in its entirety to read as herein set out, removing in their entirety articles pertaining to kennel licensing/permits and public hazard dogs. Former ch. 3, §§ 3-1—3-23, 3-25—3-47, 3-58—3-65, 3-70—3-75, 3-78, 3-83—3-88, and 3-97—3-99, pertained to animals, and derived from § 1 of an ordinance adopted Aug. 21, 2000; § 1 of a resolution adopted Oct. 16, 2000; § 1 of a resolution adopted Apr. 22, 2003; and § 1 of an ordinance adopted Nov. 21, 2005.

ARTICLE I. - ADMINISTRATION

Sec. 3-1. - ~~Animal-control~~Animal Services department established.

There is hereby established in the government of the county an ~~animal-control~~Animal Services department.

(Ord. of 6-17-2013(1))

Sec. 3-2. - ~~Animal-control~~Animal Services director.

The ~~animal-control~~Animal Services department shall be supervised by the ~~animal-control~~Animal Services director, who shall be the director of that department, appointed by the county manager.

(Ord. of 6-17-2013(1))

Sec. 3-3. - Functions of ~~animal-control~~Animal Services department.

The ~~animal-control~~Animal Services department shall have and perform the duties and responsibilities set forth herein, shall enforce the provisions of this chapter and of state law relating to ~~animal-control~~Animal Services and animal welfare, shall administer and enforce an ~~animal-control~~Animal Services program within such municipalities within the county as by interlocal agreement may contract with the county for such services and apply this chapter in their municipal jurisdictions, and shall maintain and operate the county animal shelter.

(Ord. of 6-17-2013(1))

Sec. 3-4. - ~~Animal-control~~Animal Services board established.

- (a) There is established the Cumberland County ~~Animal-Control~~Animal Services Board.
- (b) The ~~animal-control~~Animal Services board shall be composed of seven members to be appointed by the board of commissioners. Of the seven members, two shall be residents of the City of Fayetteville appointed by the board of commissioners from among the names of four persons nominated by the Fayetteville City Council, that is, two nominations for each seat. At least one member shall be a person with knowledge and experience in dog behavior and/or handling, one member shall be ex officio the veterinarian ~~on contract to employed by~~ the ~~animal-control~~Animal Services department, one member shall have an interest in promoting the goals of the Animal Protection Society or the Humane Society or another such broadly-based and representative organization interested in the care and protection of animals, and the other members shall represent the public at large. The members shall serve ~~staggered three two-year terms; four members shall have terms that all terms~~ expire on June 30 in ~~the year of the term expiration even-numbered years following the year of their initial appointment and three members shall have terms that expire on June 30 of odd-numbered years.~~
- (c) The powers and duties of the ~~animal-control~~Animal Services board shall include:
 - (1) Appointing three of its members to sit on the dangerous dog appeal board;
 - (2) Hearing any appeals provided for in this chapter other than appeals of the director's determinations of potentially dangerous dogs;
 - (3) Providing advice and information to the ~~animal-control~~Animal Services department;
 - (4) Upon coordination with the ~~animal-control~~Animal Services director, making recommendations to the board of commissioners or the Fayetteville City Council, as appropriate, for the betterment of the county's ~~animal-control~~Animal Services program;
 - (5) In conjunction with the ~~animal-control~~Animal Services department and the county's public information director, providing for a program of public education, information and outreach concerning responsible pet ownership, animal cruelty, and the county's ~~animal-control~~Animal Services program; and
 - (6) Selecting officers of the board, including a chairperson, and adopting rules of procedure.
- (d) A majority of the members shall constitute a quorum for the ~~animal-control~~Animal Services board to conduct its meetings. The ~~animal-control~~Animal Services board shall adopt a schedule of regular meetings and post and file it with the clerk to the board of commissioners and otherwise as required by the open meetings law. The ~~animal-control~~Animal Services board shall schedule at least four regular quarterly meetings, at which meetings the ~~animal-control~~Animal Services director or his designee shall appear and participate. In addition, the ~~animal-control~~Animal Services board may hold such special or emergency meetings, upon the call of the chairperson or any three members, as may be appropriate in the circumstances, subject to compliance with the open meetings law.

(Ord. of 6-17-2013(1))

Sec. 3-5. - Dangerous dog appeal board established.

- (a) There is established the dangerous dog appeal board.
- (b) The dangerous dog appeal board shall consist of three members to be appointed by the ~~animal control~~Animal Services board from among its members. The members shall serve ~~staggered two-one~~ year terms. Any two members of the dangerous dog appeal board shall constitute a quorum for conducting a meeting.
- (c) The powers and duties of the dangerous dog appeal board shall include:
 - (1) Selecting a chairperson to preside over its appeal hearings;
 - (2) Hearing the appeals of the determinations of potentially dangerous dogs by the ~~animal control~~Animal Services director (or his designee) pursuant to article III of this chapter or Chapter 67 of the General Statutes.
- (d) ~~The administrative assistant to the animal control~~ A staff member of Animal Services will be designated by the Director to serve as the clerk to the ~~animal control~~Animal Services board and the dangerous dog appeal board.

(Ord. of 6-17-2013(1))

Secs. 3-6—3-9. - Reserved.

ARTICLE II. - GENERAL PROVISIONS

Sec. 3-10. - Definitions.

- (a) As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

Abandon means to cease providing for the care, control or maintenance of an animal without the transfer of ownership of such animal.

~~Animal control~~Animal Services *department* means the Cumberland County ~~Animal Control~~Animal Services Department.

~~Animal control~~Animal Services *director* means the director of the ~~animal control~~Animal Services department, or his/her designee.

~~Animal control~~Animal Services *officer* means a person employed by the ~~animal control~~Animal Services department as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter.

Animal shelter or *department's shelter* means the premises operated by the ~~animal control~~Animal Services department for the purposes of impounding, sheltering or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

At large or *running at large* means any animal which is not confined on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of a competent person, other than a licensed, currently privilege tax paid, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

Breeding, ~~show, or hunting~~ dog means any ~~animal dog~~ that ~~the owner has bred or intends to breed that has been examined by a licensed veterinarian within the previous 12 months and for which the owner possesses a registration certificate from the American Kennel club, The Canadian Kennel Club, or the United Kennel Club was used in breeding, showing, or hunting in the last year if over one year old; or any animal younger than one year that is eligible to breed, show or hunt in the coming year.~~

Chapter means the provisions of this ~~animal control~~Animal Services chapter as may be in effect in Cumberland County or any municipal jurisdiction located therein.

Confinement means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

County manager means the duly appointed county manager of the county or his/her designee.

Cruelty means to endanger by any act of omission or commission the life, health or safety of an animal.

Director means the director of the ~~animal control~~Animal Services department.

Domestic animals means any animals that depend on humans for food, water and shelter to include but not be limited to: Dogs, cats, horses, cows, pigs, sheep, goats and fowl.

Exposed to rabies means any animal that has been bitten by or exposed in a manner proven to be able to transmit rabies, to any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

Fee schedule means any schedule of fees related to the administration of this chapter which may be adopted by the board of commissioners.

Fowl means chickens, guineas, geese, ducks, pigeons, and other avian animals.

Harboring means regularly feeding, sheltering or caring for an animal.

Hunting dog means a dog that is owned by an individual possessing a valid license to hunt animals appropriate to the breed of dog.

Impoundment means placing an animal in an ~~animal-control~~Animal Services vehicle or unit, or holding an animal at the animal shelter, or holding an animal at any other location at the direction of the director of ~~animal-control~~Animal Services.

Keeper means any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare and maintenance of the animal.

Livestock includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

Memorandum of understanding (MOU) means an agreement by an owner and the ~~animal control~~Animal Services department signed by the owner who agrees to certain limitations and/or conditions contained therein.

Neuter means to render a male dog or cat unable to reproduce.

Nuisance/reckless owner means an owner who has received a violation under this chapter and has outstanding fees owed to Cumberland County ~~Animal-Control~~Animal Services for previous violation(s) or who has not complied with the requirements for ownership of a nuisance animal, dangerous or potentially dangerous dog, ~~or~~ anyone who has signed an MOU with the ~~animal-control~~Animal Services department and has failed to adhere to the MOU, or anyone convicted of misdemeanor or felony animal cruelty-

Owner means anyone taking care of or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

Permit means a permit issued by the ~~animal-control~~Animal Services department or similar agency of any applicable governmental unit having jurisdiction.

Potentially dangerous dog and *dangerous dog* shall have the meanings set forth in section 3-30 hereof.

Restraint means ~~that the physical control of~~ -an animal ~~is actually physically controlled~~ by leash or tether held by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or parked on the street or confined within the property limits of its owner or keeper.

Run means an area used to confine a dog or dogs of a size that complies with any of the requirements of this chapter.

Sanitary means a condition of good odor and cleanliness, which precludes the probability of disease transmission and insect or vermin breeding and which preserves the health of the public.

Show dog means a dog that the owner has shown or intends to show that has been examined by a licensed veterinarian within the previous 12 months and for which the owner possesses a registration certificate from the American Kennel Club, the Canadian Kennel Club or the United Kennel Club.

Spay means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

State law means the General Statutes of North Carolina.

Stray means any animal reasonably presumed not to have any owner, including but not limited to an animal running at large or not under restraint.

Tethered or *tethering* means attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

Transfer means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

Vaccination means an injection of United States Department of Agriculture-approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

(b) All other words or phrases used herein shall be defined and interpreted according to their common usage.

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

Sec. 3-11. - Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules, or regulations of the state applicable thereto. The provisions of this chapter shall govern where the provisions of the laws, rules and regulations of the state are less restrictive than the provisions of this chapter.

(Ord. of 6-17-2013(1))

Sec. 3-12. - Injuring, poisoning or trapping animals prohibited.

- (a) A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the ~~animal control~~Animal Services department or any law enforcement agency having jurisdiction.
- (b) No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.
- (c) No person shall set or expose an open jaw type trap, leg hold trap, or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to ~~animal control~~Animal Services officers or to persons using humane live capture traps.

(Ord. of 6-17-2013(1))

Sec. 3-13. - Diseased animals; injured or sick animals.

- (a) Every person owning or having any animal under his charge which he knows or suspects to be sick or injured shall isolate the animal from other animals, shall obtain or provide appropriate treatment for such animal within two days, surrender the animal to Animal Services within two days, or may have the animal humanely euthanized.
- (b) Any animal which comes into possession of the department's shelter which is seriously injured, sick or exhibiting symptoms of contagious disease ~~shall may~~ be humanely euthanized by the shelter personnel without waiting for the expiration of the period in which such animal may be placed for adoption. Provided, however, that before such sick, diseased or injured animal is euthanized, the shelter personnel shall contact the animal's owner, if known, to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two days of such notification, or if the owner of such animal is not known, the sick or injured animal ~~may shall~~ be euthanized by the shelter personnel. The shelter ~~manager supervisor~~ shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the shelter, the type of injury, disease or sickness of such animal, the date the animal was euthanized, and any other information relevant to the health, condition and description of such animal.

(Ord. of 6-17-2013(1))

Sec. 3-14. - Property owner may impound animal.

- (a) Any person who finds a domesticated animal or fowl on his property to his injury or annoyance may:
 - (1) Take such animal to the ~~Animal Control~~Animal Services shelter; or
 - (2) Retain possession of such animal or fowl and, within one business day, notify the ~~animal control~~Animal Services department of this custody, giving a description of the animal and any information regarding the owner's name, if known. Any person removing the animal from the impounder's property shall remove the animal in such a manner so as not to cause injury to the animal.
- (b) No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the ~~animal control~~Animal Services department ~~of his intention either to: (i) surrender the animal to the animal shelter, or (ii) advertise for five consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community. If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth day after the date of the first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement of a stray animal shall not have been first published within 72 hours after so notifying the animal control department, then the animal shall be surrendered to the animal control department.~~
- (c) Any animal reported as found to Animal Services shall be considered the legal property of the finder if no verified owner has reclaimed the animal within 10 business days of the reporting.

(Ord. of 6-17-2013(1))

Sec. 3-15. - Nuisance animals; animals posing a threat to the public.

- (a) [Definitions.]
 - (1) For the purposes of this section, "nuisance" means, but is not limited to, the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, fowl, cat or dog which molests passersby or passing vehicles, damages private or public property; barks, whines, howls, crows, growls or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; is

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>

unconfined in season; defecates on the property of someone other than the owner; or eats or otherwise destroys the plants, shrubs or similar landscaping on the property of someone other than the owner.

- (2) For the purposes of this section, "nuisance animal" means any animal that commits any of the acts, conduct or behaviors defined as constituting a nuisance in this section.
- (b) *[Keeping of nuisance animal prohibited.]* No person shall keep any animal which is a nuisance animal or which causes a nuisance as defined in this section.
- (c) ~~*Violations — Notice of violation.*~~ When an ~~animal control~~Animal Services officer or Law Enforcement Officer determines that ~~witnesses~~ a violation of this section, ~~they~~Animal Services shall investigate and follow the Department's procedures for mitigation of nuisance issues. ~~has occurred, he may issue a written warning of violation and notice of public nuisance, which shall be served on the owner or keeper of the animal. The owner or keeper shall be responsible for abating the nuisance within 24 hours by making sure his animal does not engage in any further act or acts which may constitute a nuisance under this section.~~
- ~~(d) *Failure to abate the nuisance.* If the animal control officer determines that the animal has engaged in any further act(s) constituting a nuisance, or if the owner or keeper of the animal fails to abate the condition which constitutes the nuisance within 24 hours after issuance of the written warning of violation, the animal control officer may issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. If the owner fails to abate the nuisance after the first civil penalty, the animal control officer may seize and impound the animal. If the animal is seized, the animal control officer must post a notice of seizure and impoundment with the owner or keeper of the animal. The owner or keeper may reclaim the animal upon payment of any civil penalties and shelter fees or charges for the impoundment. If the animal is not reclaimed within five days, it shall become the property of the animal control department and shall be disposed of according to the department's policies.~~
- (e) *Owner unknown.* In situations where the owner of a nuisance animal is unknown, the ~~animal control~~Animal Services officer shall impound the animal ~~without and~~ posting notice of the impoundment. If the owner does not redeem the animal within ~~three~~five days, the animal shall become the property of the ~~animal control~~Animal Services department and shall be disposed of according to the department's policies.
- ~~(f) *Animal housed or restrained less than 15 feet from public way.* When an animal control officer has determined that an animal is being housed or restrained within 15 feet of a public street, road or sidewalk, and the animal poses a threat to the public, but the animal is not in the street, road or on the sidewalk, the animal control officer shall issue a warning to the owner or keeper of the animal directing that the animal be moved to a distance greater than 15 feet from the public street, road or sidewalk. If the owner or keeper refuses to move the animal, the animal control officer shall issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. After the first civil penalty the animal control officer may impound the animal. The animal control officer must leave a notice of impoundment with the owner/keeper or affix the notice to the premises from which the animal has been seized. The owner shall have five days to redeem the animal. If the animal is redeemed, the owner must pay all civil penalties and shelter fees for the impoundment. If the owner fails to redeem the animal within five days, the animal shall become the property of the animal control department and shall be disposed of according to the department's policies.~~
- ~~(g) *Animal found in the public way.* If an animal is housed or restrained within 15 feet of a public street, road or sidewalk and the animal poses a threat to the public, and the animal control officer finds it to be in the public street, road or on the sidewalk and the owner or keeper is not at home or refuses to remove the animal from the public street, road or sidewalk, the animal control officer may impound the animal. The animal control officer must leave a notice of impoundment with the owner or keeper or affix the notice to the premises from which the animal was housed or restrained. The animal services officer may issue a notice of violation and civil penalty for a first offense and additional penalties for each subsequent offense. The owner shall have five days to redeem the animal. If the animal is redeemed, the owner or keeper must pay all civil penalties and shelter fees for the impoundment. If the owner or keeper fails to redeem the animal within five days, the animal shall become the property of the animal control department and shall be disposed of according to the department's policies.~~
- (h) *Private remedies.* This section shall not be construed to prevent a private citizen from pursuing a private cause of action for damages against the owner or keeper of any animal that has caused injury to said private citizen or his property for damages or any other loss resulting from an animal being a nuisance as defined by this section or otherwise.

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

Sec. 3-16. - Animal fighting and animal fighting paraphernalia prohibited.

- (a) No person shall permit or conduct any dog fights, cock fights, or other combat between animals, or between animal and human.
- (b) It shall be unlawful for any owner or person to keep, own, possess, maintain, control, or use materials used or intended to be used in dog fighting or cock fighting. Such items shall include but are not limited to treadmills; fighting or fight training pit; wooden sticks or handles used or capable of being used to

pry open jaws; magazines, photographs, film, or videotapes depicting animal fighting or animal fight training; breeding stands; jaw strengthening devices; spurs; gaffs or slasher cases; gaff or knife gauges; mounting blocks; leather wraps; scabbards and leg or wing bands; training, conditioning, or fight contracts or records; veterinary drugs; suture kits, needles; and syringes and other veterinary supplies used for the administration of veterinary treatment for wounds or injuries from animal fighting or animal fight training.

- (c) Upon criminal charges being brought for violations of this section, the ~~animal control~~Animal Services director may petition the court for the confiscation of any animals kept or involved, or materials used or intended to be used in such fighting.

(Ord. of 6-17-2013(1))

Sec. 3-17. - Keeping of wild or exotic animals.

- (a) For the purpose of this section, a "wild or exotic animal" means an animal which is usually not a domestic animal and which can normally be found in the wild state, including, but not limited to, alligators, apes, bats, bears, crocodiles, deer, elephants, foxes, leopards, lions, lynxes, monkeys, panthers, raccoons, rhinoceroses, wolves, poisonous snakes, skunks, tigers, and like animals. Hybrids or cross-breeds of any wild or exotic animals shall also be considered as wild or exotic animals.
- (b) It is unlawful to keep, harbor, breed, sell or trade any wild or exotic animal for any purpose, except as may be licensed by the state wildlife resources commission under its regulations pertaining to wildlife rehabilitators.
- (c) This section shall not apply to zoological parks, zoos, educational or medical institutions, or circuses that perform in Cumberland County for not more than seven days. If a circus is scheduled to be in Cumberland County for more than seven days, then the circus may apply to the ~~animal control~~Animal Services director for an extension permit for a period not to exceed an additional seven days, on such terms as the ~~animal control~~Animal Services director shall determine will protect the public health, safety and welfare.

(Ord. of 6-17-2013(1))

~~Sec. 3-18. - Inhumane or cruel treatment prohibited.~~

~~It is unlawful for any owner or person to:~~

- ~~(1) Perform or carry out any inhumane or cruel treatment against any animal; or~~
- ~~(2) Keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities or which constitute or become a health hazard as determined by the animal control director, the Cumberland County Inspections Director or the Cumberland County Environmental Health Supervisor, as appropriate.~~

(Ord. of 6-17-2013(1))

Sec. 3-19. - Control of animals required; at large; strays; impoundment; confinement in season.

- (a) It is unlawful for any owner or person to permit or negligently allow any domestic animal to run at large, with the exceptions listed below. Any ~~dog, cat or~~ domestic animal that is not on the owner or keeper's property ~~not confined as provided in this chapter~~, and not under the actual physical leash control or hand restraint of its owner or keeper, shall be deemed to be running at large. Any such animal found running at large shall be either:
 - (1) Impounded by an ~~animal control~~Animal Services officer at the department's shelter subject to being reclaimed by its owner or keeper in accordance with the department's policies; or
 - (2) In the discretion of the ~~animal control~~Animal Services officer, a dog or cat found at large which is licensed by the county and is vaccinated for rabies, except a "dangerous dog," as that term is defined in article III of this chapter, may be released to its owner, upon such terms and conditions as the ~~animal control~~Animal Services officer deems appropriate.
- (b) No impounded animal shall be returned to its owner until any applicable impoundment and boarding, vaccination, other fees or costs and any penalties are paid.
- (c) Any impounded animal not claimed by its owner after a three-day holding period, exclusive of Sundays and county-observed holidays, shall become the property of the county and shall be adopted or disposed of in accordance with the department's policies.
- ~~(d) Every female dog or cat in season (heat) shall be kept confined in such a manner that such female dog or cat cannot come in contact with other animals, except for controlled breeding purposes. Female animals picked up by the animal control department which are in season (heat) shall be kept separate from male animals at all times.~~

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

Sec. 3-20. - Records; disposition of animals; adoption.

- (a) An ~~animal control~~Animal Services officer, upon receiving any animal for impoundment, shall record the description, breed, color and sex of the animal and whether or not it is licensed and the date and time of impoundment. If the animal is licensed or if the owner is known, the officer shall enter the name and address of the owner or the county license on the impoundment records. If the owner is known, the ~~animal control~~Animal Services department shall telephone the owner or, if unsuccessful in attempting to telephone such owner, shall mail notice at the address shown on the department's records to notify the owner, that unless reclaimed within 72 hours after mailing of notice, Sundays and county-observed holidays excluded, the animal may be adopted or humanely disposed of by the department's shelter. Attempts to contact the owner will be recorded on the impoundment record.
- (b) After the 72 hours of impoundment as prescribed above, animals that have not been reclaimed by the owner thereof shall be adopted or otherwise disposed of in a humane manner and as required by law. Provided, however, in the discretion of the ~~animal control~~Animal Services director, a healthy animal may be retained for an additional period for the purpose of adoption or transferred to an approved local animal adoption or rescue agency.
- (c) Before any dog or cat is released for adoption from the department's shelter, the adopter shall pay such fee(s) as may be prescribed therefore in any fee schedule adopted ~~from time to time~~ by the board of commissioners. The Animal Services Director may reduce or waive adoption fees with prior approval from the County Manager when needed to reduce overcrowding and euthanasia at the shelter. Adopted animals~~Such dog or cat~~ also shall be issued any required rabies vaccination and county license.
- ~~(d) Any employee of the animal control department may adopt one cat and one dog in any calendar year and such number of other animals as the animal control director may by written policy prescribe.~~
- ~~(e) There is hereby established a grace period of five days, beginning on the day of adoption and ending at the close of business of the fifth day thereafter (or the first business day which falls after the fifth day if such fifth day is a Sunday or legal holiday), during which period an animal adopted from the animal shelter may be returned to the animal shelter without refund for a replacement animal, conditioned solely upon the presentation of written certification of a licensed veterinarian that the adopted animal is in poor health.~~

(Ord. of 6-17-2013(1))

Sec. 3-21. - Redemption of impounded animals; impoundment where no one is present to care for an animal.

- (a) An owner shall be entitled to resume possession of his impounded ~~dog or cat or other small animal kept as a house pet domestic animal~~, upon compliance with the ~~vaccination~~ provisions of this chapter and payment of any applicable impoundment, boarding, vaccination or other fees. ~~Such dog or cat also shall be issued any required county license, as provided for in this chapter, if such dog or cat has not previously been licensed.~~ Animals four months old and older will be vaccinated for rabies and microchipped~~by shelter rabies vaccinators~~. New owners of adopted animals less than four months old shall have three business days from the time that the animal reaches the age of four months, in which to have the animal vaccinated against rabies and return the proof to the department's shelter. Failure to obtain the required rabies vaccination shall constitute a violation of this section.
- (b) When a law enforcement officer takes a person into custody who is in possession of an animal, and no other competent person is immediately present at the scene to take care of the animal, the animal will be impounded for its welfare. The animal will be impounded at the department's shelter until contact can be made with the animal's owner and an appropriate disposition of the animal determined. Once an ~~animal control~~Animal Services officer makes contact with the owner, the owner will have three business days ~~72 hours~~ to arrange for the appropriate disposition of the animal. On the fourth business day ~~After the 72-hour period expires~~, the animal shall become the property of the county and shall be disposed of as provided in this chapter.

(Ord. of 6-17-2013(1))

Sec. 3-22. - Spaying or neutering as condition for adoption or reclaiming by owner of dogs and cats; violations.

- (a) No dog or cat may be adopted from the animal shelter unless the animal has been surgically spayed or neutered, or the adopting owner agrees to do have the animal surgically spayed or neutered in accordance with any time limit imposed by the ~~animal control~~Animal Services director.
- ~~(b) The animal control director shall implement procedures to enforce this section.~~

- (be) The failure of any person adopting an impounded animal to comply with this section shall constitute a violation of this section and shall constitute the forfeiture of the animal to the ~~animal control~~Animal Services department.
- (cd) Any animal ~~picked up by animal control for found~~ running at large as defined in Sec 3-19(a) or ~~designated potentially dangerous or dangerous dog~~ shall be spayed or neutered prior to being returned to its owner.
- (de) The ~~animal control~~Animal Services director when dealing with dogs picked up for running at large may at his or her discretion make a one-time exception for breeding, show, or hunting dogs that meet the definitions of those categories within this chapter and are currently vaccinated for rabies with proof of same
- (f) An owner of an animal found running at large who can provide a written statement from a licensed veterinarian that a spay or neuter procedure would be detrimental to the animal's health or wellbeing may be allowed a one-time exception by the Director.

.(Ord. of 6-17-2013(1))

Sec. 3-23. - Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs; security bond/cash for costs of impounded animals.

- (a) All ~~dogs, cats and other small animals kept as house pets companion animals~~ shall be housed, fed and protected from the weather in such a manner as not to create a nuisance.
- (b) It is unlawful for any owner or person to:~~No person shall willfully or negligently:~~
 - (1) Torture, cruelly beat, injure, maim, mutilate or without good cause destroy or kill any animal, whether wild or tame, belonging to himself or to another;
 - (2) Deprive any animal of appropriate food, water drink or shelter; or
 - ~~(3) Cause any other person to do any of the above acts.~~
 - (3) Perform or carry out any inhumane or cruel treatment against any animal; or
 - (4) Keep possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor, or sanitary conditions becomes offensive to a reasonable and prudent person of ordinary tastes and sensibilities or which constitute or become a health hazard as determined by the Animal Services Director, the Cumberland County Inspections Department, or the Cumberland County Environmental Health Department as appropriate.
 - (5) Cause any other person to do any of the above acts
- (c) If an animal is found by any ~~animal control~~Animal Services officer to be in one of the above described conditions in subsection 3-23(a) or (b), the officer shall take appropriate measures, including civil or criminal enforcement, to protect the welfare of the animal. If the ~~animal control~~Animal Services officer determines that a confined animal's life is in immediate danger or the animal has been abandoned, the ~~animal control~~Animal Services officer shall seize such animal if such seizure is not prohibited by applicable law and shall report the conditions to an appropriate law enforcement agency if seizure is not permitted. The ~~animal control~~Animal Services officer shall leave a notice for the owner or keeper advising why the animal has been taken.
- (d) No dog, cat or other small animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature or lack of appropriate shade or protection from the elements. ~~adequate food or water.~~
- (e) No person shall abandon or cause to be abandoned any dog, cat or any other type of animal.
- (f) Owners and keepers of dogs, cats and other small animals shall provide food, shelter and medical attention to such animals, including, but not limited to, the following:
 - (1) Sufficient wholesome food that is nutritious for the species;
 - (2) Fresh, potable drinking water;
 - (3) Medical attention to relieve such animals from suffering;
 - (4) Shade from the sun; adequate ventilation and
 - (5) Shelter to allow the animal to remain warm. dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed and have a solid floor. ~~The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind or rain.~~ The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.
- (g) Any animals kept in conditions that are determined by an Animal Services Officer to be insufficient to maintain their general health and wellbeing may be impounded for the animal's protection at the owner's expense.
- (hg) It shall be unlawful to tether a dog except in accordance with this subsection.
 - (1) No dog shall be tethered outdoors unless the keeper or owner of the dog is outside and within sight of the animal at all times.~~holding the tether.~~

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>

- (2) It shall be an affirmative defense to a violation of this subsection that the tethering is required to protect the safety or welfare of a person or the dog, provided that the keeper or owner of the dog acquires a permit from the ~~animal control~~Animal Services director.
- (3) The provisions of this subsection (~~hg~~) shall not apply to a temporary tether:
 - a. During a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or
 - b. To a keeper or owner walking a dog with a hand-held leash, or during lawful hunting activities if reasonably necessary for the safety of the dog, or while a dog is actively engaged in shepherding or herding livestock; or
 - c. When meeting the requirements of a camping or recreation facility; or
 - ~~d. When the animal's caretaker is outside and within eyesight of the animal; or~~
 - e. After taking possession of a dog that appears to be a stray dog and after having advised the ~~animal control~~Animal Services department of the stray.
- (4) The provisions of subsections (~~hg~~)(2) and (3) above shall apply only if:
 - a. The tether is not placed directly round the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog; and
 - b. The weight of the tether does not exceed more than one-tenth of the dog's body weight; and
 - c. The tether is unlikely to become tangled or twisted and is attached with a swivel that will prevent tangling or twisting.
 - d. The tether is arranged to be free of any obstacles which may limit the movement of the dog and the tether is at least 12 feet long; and
 - e. The dog is tethered in a manner that permits access to necessary shelter and water.
 - f. The dog has been spayed or neutered.
- (5) Any dog that remains tethered in violation of this subsection for more than 14 days after the owner receives a notice of violation may be seized by an ~~animal control~~Animal Services officer or law enforcement officer and impounded at the department's shelter. If the dog's owner does not show that an adequate confinement enclosure complying with the requirements of this chapter has been installed on the owner's property within 3 business days~~72 hours~~ of the impoundment, ~~exclusive of Sundays and county government holidays~~, the dog shall be deemed to have been forfeited to the county and shall be disposed of in accordance with the department's policy.
- (~~ih~~) Any companion animal ~~dog~~ confined within a fenced yard or run must have an adequate space for exercise. Provided, however, that where companion animals ~~dogs~~ are kept or housed on property without a fenced yard and such dogs are kept in an enclosure or run, such enclosure or run shall provide adequate space for exercise. Such an enclosure or run shall be constructed of chain link or similar type of materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the animal ~~dog~~ from escaping from such enclosure. The top of such enclosure shall be sufficiently covered to provide the animal ~~dog~~ with adequate shade and protection from the elements. The enclosure shall be maintained so that it shall remain sanitary and preclude injury to the animal.
- (~~ji~~) Security of costs for impounded animals. Any person claiming an ownership interest in any animal confined pursuant to this chapter may prevent the disposition of the animal after the 3 day hold period set forth in section 3-19(d) by posting a security bond or cash with the Animal Services department prior to the animal being adopted or euthanized in an amount sufficient to guarantee payment of all of the reasonable expenses expected to be incurred in caring and providing for the animal, including the estimated cost of medical care, for at least thirty (30) days; however, such security shall not prevent the Animal Services department from disposing of the animal at the end of the thirty-day period covered by the posted bond/cash, unless the person claiming an ownership interest in the animal posts an additional security bond or cash with the Animal Services department to secure payment of the animal's reasonable expenses for an additional thirty (30) days, and does so prior to the expiration of the first thirty day period. The amount of the bond/cash shall be determined by the Animal Services Director based on the current fee schedule and on the condition of the animal after examination by the shelter veterinarian or shelter manager. Failure to timely post the security shall result in the animal being immediately forfeited to the Animal Services department for disposition. If the fees, costs and penalties owed for the animal are not paid in full by the end of each security period, the security already posted shall be forfeited to the county on said date and used to pay the remaining unpaid fees, costs and penalties owing for the animal. The animal's owner shall remain responsible for all remaining unpaid fees, costs and penalties. Any security bond/cash remaining after the payment of all fees, costs and penalties shall be remitted to the person who posted the bond/cash.

(Ord. of 6-17-2013(1))

Sec. 3-24. - Dead animal pickup; relinquishing animals to the shelter.

- (a) Dead animals may be picked up from residences by waste/sanitation haulers as provided by the Cumberland County Solid Waste Department's policies as in effect from time to time.

- (b) Owners may relinquish their animals to the department's shelter provided the owner signs an impoundment card releasing possession of the animal to the shelter. Once the animal is released to the shelter, the animal shall become the property of the county and may be adopted or humanely disposed of in accordance with the department's policies.

(Ord. of 6-17-2013(1))

~~Sec. 3-25. -- Apprehension of wild dogs.~~

~~If the animal control director shall determine that:~~

- ~~(1) A dog or dogs are running wild in any area within the jurisdiction of this chapter; such dogs are feral and do not have an owner, keeper or custodian; such dogs appear not to have been vaccinated for rabies because such dogs are not wearing current and valid rabies tags; such dogs are substantially interfering with the use and enjoyment of property or the conduct of business, or are harassing or threatening persons; and that such dogs cannot after extraordinary effort be apprehended; or~~
- ~~(2) An animal or animals are running wild and appear to be rabid or terminally diseased, present an imminent threat to any person or to livestock or domestic pets, or are harassing and threatening persons, and cannot be apprehended without extraordinary effort;~~

~~then the director shall be authorized to cause deadly force to be used to humanely euthanize said dogs or wild animals. Prior to making such a determination, in the case of wild dogs, the director shall have documented that persistent and repeated efforts to apprehend such dogs through use of traps, baited food, and tranquilizer darts have been ineffective. After making such a determination, the animal control director may:~~

- ~~(1) Authorize any animal control officer that has, in the discretion of the animal control director, received appropriate training and certification in firearms to use deadly force; or~~
- ~~(2) Request assistance from the Sheriff or from appropriate municipal police authorities in order that the application of deadly force shall be effected by a sworn law enforcement officer that has a marksman rating and/or qualification; or~~
- ~~(3) Seek the services of any private business, corporation, organization or other governmental organization or agency as may be approved by the county manager for the application of deadly force.~~

~~If such deadly force is proposed to be effected, the animal control director shall take every precaution to assure the safety of persons and property in the area within which the dogs or animals are running wild.~~

(Ord. of 6-17-2013(1))

~~Sec. 3-26. -- Regulation of the number of dogs which may be kept on certain premises.~~

- ~~(a) No more than three dogs more than five months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for single family, residential lots of 20,000 square feet or less (R20 or less).~~
- ~~(b) No more than two dogs more than five months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for multifamily residential housing.~~
- ~~(c) In any area in which the applicable zoning regulations are more restrictive as to the keeping of dogs than the requirements of this section, the zoning regulations shall control.~~
- ~~(d) This section shall not be construed to limit the right of any landlord to impose more restrictive limits on the number of pets which may be possessed at any leased premises.~~
- ~~(e) All dogs which have been listed with the Cumberland County Tax Administrator for an annual Cumberland County privilege license for the calendar year 2012 by the date this revised chapter becomes effective shall be exempt from this section.~~

(Ord. of 6-17-2013(1))

Sec. 3-27. - Sanitation.

No keeper of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property without permission of the occupant of said property, unless such keeper immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other appropriate container; and

- (2) Removal of such bag or container and disposition thereafter in a manner as otherwise permitted by law.

(Ord. of 6-17-2013(1))

Sec. 3-28. - ~~Breeding/advertising/transfer [BAT] Litter~~ permit.

~~Anyone owning or harboring a dog or cat shall not allow their animal(s) to produce a litter of one or more puppies or kittens without purchasing a litter permit from Animal Services prior to the birth of the litter. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than \$300.00 or by imprisonment in the county jail for not more than 30 days.~~

~~Owners who wish to breed their dog or cat and meet the requirements of the breeding/advertising/transfer [BAT] permit as outlined in subsection (2) of this section, may apply for such permit through the animal control division. The holder of the [BAT] permit would be authorized to breed, sell, trade, advertise, receive for any compensation, give away or transfer ownership of no more than one litter per licensed animal, per household, per year.~~

~~(1) Under no circumstances shall a [BAT] permit be issued:~~

- ~~a. For any dog or cat not currently licensed as required in section 3-50 of this Code unless such person lives outside the county limits.~~
- ~~b. To any person who has ever been convicted by any court of a charge relating to animal cruelty or neglect or has such a charge[s] pending until outcome of charges has been determined.~~

~~(2) A [BAT] permit must be obtained by, but not limited to:~~

- ~~a. Any person wishing to breed their dog or cat;~~
- ~~b. Each breeding pair, dog or cat, before breeding shall take place;~~
- ~~c. Any person who intentionally or unintentionally causes or allows the breeding of dogs or cats.~~

~~(3) Any person convicted of violating the provisions of subsection (2) of this section shall be punished by a fine of not less than \$300.00 or by imprisonment in the county jail for not more than 30 days.~~

(Ord. of 6-17-2013(1))

Sec. 3-29. - Nuisance/reckless owner.

A person cited as a nuisance/reckless owner shall be ordered to surrender all of his/her ~~dogs/cats/domestic animals~~ to ~~animal control~~Animal Services and shall refrain from owning, keeping, or harboring ~~those dogs/cats/domestic animals, or~~ any ~~dogs/cats/~~domestic animals for a period of three years.

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

ARTICLE III. - DANGEROUS DOGS

Sec. 3-30. - Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

Attack by a dog means any behavior or action by a dog which could reasonably be expected to cause physical injury to a person or domestic animal, to include biting, felling or toppling, tearing of clothing, or provoking flight to escape attack.

Bite by a dog means any seizing, gripping or grasping, no matter how slight or momentary, by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

Dangerous dog means any of the following dogs:

- (1) A dog that without provocation has killed or inflicted severe injury on a person; or
- (2) A dog that has been determined as provided herein to be potentially dangerous; or
- (3) A dog that is owned or harbored primarily, or in part, for the purpose of dog fighting or a dog trained for dog fighting.

Dog means a domesticated animal (*Canis familiaris*) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

Guard dog means a dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

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Law enforcement dog means a dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

Lawful hunt means a hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

Owner of a dog or owning a dog means any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

Owner or keeper's real property means any real property owned or leased by the owner or keeper of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

Potentially dangerous dog means a dog that had been determined, as provided herein, to have:

- (1) Inflicted a bite on a person that required medical care more than first aid;
- (2) Killed or inflicted injury upon a domestic animal when not on the real property of the owner of the dog; or
- (3) Attacked a person or approached a person in an area of the keeper's property open and accessible to invitees, or when not on the owner's property, in a vicious or terrorizing manner in an apparent attitude of attack.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Territorial jurisdiction of Cumberland County means all territory within the boundaries of the County of Cumberland, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this chapter in its jurisdiction.

(Ord. of 6-17-2013(1))

Sec. 3-31. - Application of article; exceptions.

The provisions of this article do not apply to:

- (1) A law enforcement dog or guard dog being used by a law enforcement officer or a bona fide professional security guard while in the performance of official duties or professional responsibilities;
- (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under control of its owner, and the damage or injury was to a species or a type domestic animal appropriate to the work of the dog; or
- (4) A dog where the injury inflicted by the dog was sustained by a person who at the time of the injury, was tormenting, abusing, or cruelly treating the dog, or had tormented, abused, or cruelly treated the dog, or was committing or attempting to commit a crime.

(Ord. of 6-17-2013(1))

Sec. 3-32. - Reporting requirements.

- (a) *Reporting required.* An owner of a dog that has attacked or bitten a person or domestic animal, a victim of an attack or biting by a dog, the owner of any domestic animal that has been attacked or bitten by a dog, any person witnessing such an attack or biting, a veterinarian treating a domestic animal for such an attack or biting, or a health care professional treating a person for such an attack or biting, shall report the following events to the ~~animal control~~Animal Services department within three business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal; or
- (2) The transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.

- (b) *Report data required.* The data required in the report and the format thereof shall be as set forth in administrative procedures established by the ~~animal control~~Animal Services director.

(Ord. of 6-17-2013(1))

Sec. 3-33. - Determination that a dog is potentially dangerous; appeals.

- (a) *Generally.* Upon receipt of a report submitted in accordance with section 3-32, or upon the receipt of any other complaint, or when he has reasonable suspicion that a dog is potentially dangerous, the director or his designee shall make a determination whether or not such dog is a potentially dangerous dog. Any determination that a dog is potentially dangerous shall be made in a writing stating the facts relied upon by the director to make his determination. The written declaration shall be personally delivered to the owner of the subject dog or shall be mailed by certified mail, return receipt requested, to the owner. If the determination is made that the subject dog is potentially dangerous, the written determination shall order compliance with the appropriate provisions of this article and the director may impose reasonable conditions to maintain the public health and safety. The director may pursue such other civil or criminal penalties and remedies as authorized by this chapter or state law.
- (b) [*Determination by director.*] If, at any time after the receipt of any report or complaint made pursuant to section 3-32, the director determines that the conditions under which the subject dog is being kept or confined do not adequately protect the public health or safety, the director shall require that the subject dog be impounded at the department's shelter until completion of the investigation and any appeal of the decision of the director.
- (c) *Appeals from determinations.*
 - (1) The owner of any dog determined by the director to be potentially dangerous may appeal the decision of the director to the appeal board within three business days of receiving notice of the determination. Appeal to the appeal board may be taken by filing written objections to the director's determination with the clerk for the appeal board.
 - (2) The appeal board shall schedule and hear such appeal within ten days of the filing of the written objections or at such later time as the appellant consents.
 - (3) The vote of the appeal board shall be taken, and the announcement of its decision shall be made, in an open public meeting. A written statement of the decision of the appeal board shall be delivered to the director and the appellant. The notice shall be sent by certified mail, return receipt requested, and filed concurrently with the director and the Cumberland County Attorney.
- (d) [*Conduct of appeal.*] An appeal hearing before the appeal board shall be conducted as follows:
 - (1) The hearing shall be subject to the open meetings law, and the required notice shall be posted and given as applicable;
 - (2) The chairperson of the appeal board shall preside at the hearing;
 - (3) The director shall be represented by the county attorney;
 - (4) The county attorney shall present the director's case;
 - (5) The appellant may be represented by an attorney;
 - (6) The director and the appellant may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
 - (7) The chairperson of the appeal board shall rule on the admissibility of any evidence and on any procedural issues that might arise;
 - (8) The director and the appellant shall be entitled to cross-examine any witnesses;
 - (9) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
 - (10) The appellant shall be entitled to obtain a transcript of the proceeding at his own cost;
 - (11) The appeal board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (e) [*Purpose of appeal.*] The purpose of the hearing before the appeal board shall be to determine whether or not the determination of the director is in the best interests of the public health, safety and welfare.
- (f) [*Function of appeal board.*] The function of the appeal board shall be to affirm, reverse, or modify the determination of the director which has been appealed. Any conditions imposed by the appeal board shall be reasonable, relevant to the issues in the matter, and have the effect of promoting the public health, safety and welfare.
- (g) [*Hearing.*] The hearing shall be administrative in nature and the decision of the appeal board shall be final.

(Ord. of 6-17-2013(1))

Sec. 3-34. - Registration required.

- (a) *Generally.* Any person owning a dangerous dog as defined by this chapter or Chapter 67 of the General Statutes shall register such dog with the ~~animal control~~Animal Services department within five days of such event which established the dog to be dangerous or may, in lieu of any hearing, register such dog voluntarily, which shall constitute an admission and final determination that the dog is dangerous.

- (b) *Permanent identification mark required.* Each dog registered pursuant to this section shall be assigned a registration number by the ~~animal control~~Animal Services department, which shall be affixed to the dog by permanent chip implant, at the expense of its owner. No person shall remove such identification once it is assigned and affixed.

(Ord. of 6-17-2013(1))

Sec. 3-35. - Permit required.

- (a) *Generally.* After registration of a dangerous dog or after a final determination that such dog is potentially dangerous in accordance with this chapter or Chapter 67 of the General Statutes, no person shall own such dog thereafter within the territorial jurisdiction of this chapter without applying for and obtaining a permit from the ~~animal control~~Animal Services department.
- (b) *Issuance of permit.* The ~~animal control~~Animal Services department shall issue a permit for a dangerous dog only upon submission of a complete, verified application, payment of the permit fee and a finding by the director or his designee that:
- (1) The required conditions for keeping and housing the dog and other public health and safety protective measures are in effect; and
 - (2) The dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the owner shall comply with the provisions of this article and the conditions of the permit.
- (c) [*Condition of issuance.*] Issuance of a permit shall be conditioned on continued compliance with the provisions of this article and other provisions of state law, on continued compliance with and maintenance of the conditions for housing the dog and public safety set forth in the permit, and any special conditions the director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog for which the permit is issued.
- ~~(d) *Temporary permits.* Following the registration of a dangerous dog or the impoundment of a dog declared to be potentially dangerous, upon application therefor and for good cause, the director may issue a temporary permit allowing the owner of a registered dangerous dog or a dog declared to be potentially dangerous to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the director. The director may also issue a temporary permit to allow the transport of a dangerous or potentially dangerous dog from the territorial jurisdiction of this chapter. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this article. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of this section.~~
- (e) *Term of permits and renewal thereof.* No permit shall be issued under this section for a term of more than three years but may, in the director's discretion, be issued for a shorter period. Permits must be renewed, subject to the same terms and conditions required for initial permits.
- (f) *Revocation of permits.* The director may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the director deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, revoke any permit or any portion thereof. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this article or with any term, condition or provision of a permit.
- (g) *Inspections.* The director shall cause periodic inspections to be made of the premises of the owner of a permitted dangerous or potentially dangerous dog to assure compliance with the provisions of this article and the applicable permit.
- (h) *Insurance.* Every person owning a dangerous dog, as determined in accordance with this article or Chapter 67 of the General Statutes, shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be \$50,000.00 for personal injury or property damage, per occurrence. Such owner shall cause a certificate or declaration of insurance to be furnished to the director annually. Every day that the required insurance is not in full force and effect shall constitute a violation of this article.

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

Sec. 3-36. - Regulation of dangerous dogs; security and restraint requirements.

No person shall own a dangerous dog except in compliance with all provisions of this article, including the following regulations:

- (1) While on the real property of its owner, such dog shall be kept, secured and restrained as follows:
 - a. In a building with doors, windows and other exits securely fastened shut and under the supervision and control of a responsible, capable adult person; or

- b. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children; or
 - c. While outside a building or enclosure described above, securely leashed with a leash no longer than four feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (2) Such dog shall only be removed from the real property of its owner as follows:
- a. For transportation to and from a veterinarian or the department's shelter; or
 - b. For its permanent removal from the territorial jurisdiction of this chapter; or
 - c. To provide bona fide exercise necessary for its continued good health.
- (3) While off its owner's real property, such dog shall be securely leashed with a leash no longer than four feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (4) Notwithstanding the foregoing, no person shall own a dangerous dog that has killed a person, except in the care and custody of a veterinarian for the purposes of treatment or quarantine; or in the custody of the department's shelter pending disposition in accordance with the provisions of this chapter, the department's policies, or the order of any court.
- (5) Signage. The owner of a dangerous dog shall erect a sign with dimensions of at least two feet x two feet on the enclosure housing such dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

(Ord. of 6-17-2013(1))

Sec. 3-37. - Impoundment of dangerous dogs.

- (a) *Apprehension and surrender.* Upon an initial determination of a dog as potentially dangerous or upon registration of a dog to be dangerous, or if the director has reasonable suspicion to believe that a dangerous, or potentially dangerous dog is being kept or harbored within the territorial jurisdiction of this chapter in violation of it or of a permit issued hereunder, ~~animal control~~Animal Services officers and law enforcement officers of Cumberland County and of any municipality subject to this chapter shall impound such dog. It shall be a violation of this article to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the department's shelter.
- (b) *Surrender.* Hiding, removing or failing to surrender a dangerous or potentially dangerous dog, or impeding any investigation concerning the same, shall be a violation of this article.
- (c) *Confinement.* A dog impounded by or surrendered to an ~~animal control~~Animal Services officer or law enforcement officer as provided herein shall be confined in the department's shelter or, upon request of the owner hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the director, subject to the following conditions:
- (1) *Costs of impoundment.* Impoundment shall be at the expense of the owner of the dog. Costs of impoundment at the department's shelter shall be paid by the person liable therefore at the daily rate. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Cumberland County or any municipality subject to this chapter be liable for or pay for impoundment at such private facility or kennel.
 - (2) *Release from impoundment.* No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance of a permit or temporary permit allowing such release. No such dog shall be released from the department's shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.
 - (3) *Disposition of unclaimed or abandoned dogs.* The following dogs impounded at the department's shelter pursuant to this article shall be deemed abandoned and shall be disposed of in accordance with the provisions of this chapter and the rules and regulations of the department:
 - a. Any dog which remains unclaimed by its owner for a period more than ten days or a period of lawful quarantine, whichever is longer; and
 - b. Any dog claimed by its owner which is confined for a period in excess of ten days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the director shall extend such time upon a showing of justifiable delay in such action by the owner.

(Ord. of 6-17-2013(1))

Sec. 3-38. - Violations, penalties and other remedies.

- (a) *Violations.* Each act or conduct prohibited by this article and each failure to comply with a mandatory provision hereby and each day's continuing failure to comply shall constitute a separate and distinct offense.
- (b) *State law violations.*
 - (1) Nothing in this chapter shall be constructed to prevent an ~~animal control~~Animal Services officer or any other person from pursuing remedies under Chapter 67, Article 1A, of the North Carolina General Statutes.
 - (2) The director or his designee is designated as the person responsible for making the determination required under G.S. 67-4.1(c). In making such determinations, the director or his designee shall follow the procedure set forth in this article.
 - (3) The dangerous dog appeal board is designated as the appellate board to hear appeals of determinations made pursuant to G.S. 67-4.1(c).

(Ord. of 6-17-2013(1))

Sec. 3-39. - Administrative provisions.

- (a) *Responsibility.* The director shall administer and enforce this article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.
- (b) *Authority to enter upon premises.* ~~Animal control~~Animal Services officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to:
 - (1) Conduct any investigation of a dog alleged or suspected of being potentially dangerous or dangerous; or
 - (2) Apprehend a dog determined to be potentially dangerous or dangerous or as to which there is reasonable suspicion to believe is potentially dangerous or dangerous; or
 - (3) Investigate any violation of this article; or
 - (4) Serve a citation upon a person for violation of this article.
- (c) Notwithstanding the foregoing, an ~~animal control~~Animal Services officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, or otherwise as authorized by law.
- (d) Authority to immobilize or kill a dangerous or potentially dangerous dog.
 - (1) If in the course of investigating, apprehending or otherwise taking custody of a potentially dangerous or dangerous dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, such dog is not securely restrained and an ~~animal control~~Animal Services officer or a law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the officer may humanely dispose of said dog.
 - (2) If a potentially dangerous or dangerous dog impounded in the department's shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the department shall render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the department may humanely dispose of said dog.
 - (3) The ~~animal control~~Animal Services department may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner.

(Ord. of 6-17-2013(1))

ARTICLE IV. - RABIES CONTROL AND ANIMAL BITES

Sec. 3-40. - Rabies control.

- (a) *Enforcement authority.* The ~~animal control~~Animal Services director and the Cumberland County Health Director are authorized to enforce the rabies control provisions in Part 6 of Chapter 130A of the North Carolina General Statutes and are further authorized to implement any reasonable administrative procedures necessary to enforce this state law locally.

- (b) *Impoundment term.* The impoundment period for animals held pursuant to this section shall be 72 hours, excluding Sundays and legal holidays.
- (c) *Compliance with rabies law.* It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- (d) *Provisions supplementary to state law.* It is the purpose of this section to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by the state law.
- (e) *Vaccination required.* It shall be unlawful for an owner or keeper to fail to provide proof of current vaccination against rabies ~~(hydrophobia)~~ for any dog, cat or ferret four months of age or older. Should the county health director deem it necessary that other pets be vaccinated in order to prevent a threatened rabies epidemic or control an existing rabies epidemic, it shall be unlawful for an owner or keeper to fail to provide vaccination for that pet.
- (f) *Vaccination schedule.* A rabies vaccination shall be deemed current for a dog, cat or ferret if the first two doses of vaccine are administered 12 months apart and each subsequent booster dose of vaccine is administered according to the manufacturer's recommended schedule.
- (g) *Persons to administer; issuance of a certificate.* All rabies vaccines shall be administered by a licensed veterinarian, a registered veterinary technician under the direct supervision of a licensed veterinarian, or a certified rabies vaccinator. A person who administers a rabies vaccine shall complete a rabies vaccination certificate in such form as is approved by the ~~animal control~~Animal Services director pursuant to the regulations of the Commission for Public Health. An original rabies vaccination certificate shall be given to the owner of the animal that receives the rabies vaccine. A copy of the rabies vaccination certificate shall be retained by the licensed veterinarian or the certified rabies vaccinator. A copy shall also sent to Animal Services. ~~be given to the animal control director.~~
- (h) *Owner or keeper to be issued rabies tag.* Upon vaccination pursuant to this section, the owner or keeper of the dog, cat or ferret that has been vaccinated shall be issued a rabies tag stamped with a number and the yard for which issued and a rabies vaccination certificate.
- (i) *Unlawful for dog, cat or ferret not to wear rabies tag.* It shall be unlawful for any dog, cat or ferret owner or keeper to fail to provide the dog, cat or ferret with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with the attached tag, must be worn at all times the animal is off its owner's property.
- (j) *Untagged dog, cat or ferret subject to impoundment.* In addition to all other penalties prescribed by law, a dog, cat or ferret may immediately be impounded in accordance with the provisions of this section if it is found off its owner's or keeper's property not wearing a currently valid rabies tag.
- (k) *Unlawful to switch rabies tag.* It shall be unlawful for any person to use for any animal a rabies vaccination tag or certificate issued for an animal other than the one assigned the tag or certificate.
- (l) *Dogs, cats or ferrets brought into county.* All dogs, cats or ferrets shipped or otherwise brought into the territorial jurisdiction of this chapter, except for exhibition purposes where the dogs, cats or ferrets are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination, unless accompanied by a certificate issued by a licensed veterinarian showing the dog, cat or ferret is apparently free from rabies and has not been exposed to rabies and that the dog or cat has received a proper dose of rabies vaccine not more than six months prior to the date of issuing the certificate.
- (m) *Animals exposed to rabies.*
 - (1) If the ~~animal control~~Animal Services director determines that an animal has not ever been vaccinated against rabies or received its only rabies vaccine less than at least 28 days prior to being exposed to rabies from a suspected rabid animal, the animal shall be immediately euthanized unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of four~~six~~ months at the owner's or keeper's expense.
 - (2) If the ~~animal control~~Animal Services director determines that an animal with a current rabies vaccination or proof of previous rabies vaccination that has since expired has been exposed to rabies from a suspected rabid animal, it shall be revaccinated and returned to the owner or keeper who shall be responsible for the cost of the rabies vaccination. The owner or keeper is required to monitor the health of the animal for 45 days and report any illness to Animal Services.
- (n) *Health director may declare quarantine.* When reports indicate a positive diagnosis of rabies, to the extent that the lives of persons are endangered, the county health director may declare a county-wide quarantine for such period of time as he deems necessary. Once such emergency quarantine is declared, no dog, cat or ferret may be taken or shipped from the county without written permission of the county health director. During such quarantine, the county health director, the ~~animal control~~Animal Services director, law enforcement officers, or other persons duly authorized by the county health director or ~~animal control~~Animal Services director may seize and impound any dog, cat or ferret running at large in the county. During the quarantine period, the county health director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county. If additional confirmed cases of rabies occur during the quarantine period, the county health director in his discretion may extend the quarantine period.

- (o) *Carcass to be surrendered to ~~health~~Animal Services department.* The carcass of any animal suspected of dying of rabies, or dying while under observation for rabies, shall be submitted to the ~~county health~~Animal Services department for the implementation of appropriate diagnostic procedures as advised by the NC Department of Health and Human Services Public Health Veterinarians.
- (p) *Unlawful to kill or release animal under observation.* It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal under observation for biting a human, or to remove such animal from the county without written permission from the county health director, provided that a licensed veterinarian or the county health director or other person duly authorized by the county health director may authorize any animal to be killed for rabies diagnosis.
- (q) *Unlawful to fail to surrender animal.* It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this article, when demand is made therefore by the county health director, the ~~animal-control~~Animal Services director or any law enforcement officer.
- (r) *Unlawful to fail to provide proof of vaccination.* It shall be unlawful for any person to fail or refuse to provide proof of rabies vaccination for any animal that they own or control when request is made therefore by the ~~animal-control~~Animal Services director or his designee, the county health director or his designee, or any sworn law enforcement officer.
- (s) *Animals subject to impoundment.* Any animal which appears to be lost, stray, unwanted, ~~not wearing a currently valid tax tag or a currently valid rabies vaccination tag as required by state law or this section~~, or not under restraint in violation of this chapter, may be seized, impounded and confined in a humane manner in the department's shelter. Any dog or cat that has bitten or scratched a human must be quarantined for ten days from the date of the bite or scratch, either at the home of its owner or keeper, if an ~~animal-control~~Animal Services officer determines that the public health and safety shall be reasonably maintained by such quarantine, or otherwise in the department's shelter or in a veterinary hospital at such owner's or keeper's expense. If such dog, cat or ferret is quarantined at the home of its owner or keeper and escapes, any ~~animal-control~~Animal Services officer shall impound such dog, cat or ferret at the department's shelter for ten days from the date of the bite or scratch.
- (t) *Owner liable.* Impoundment of such animal shall not relieve the owner/keeper thereof from any penalty which may be imposed for violation of this section.
- (u) *[Disposition of infected animals.]* The County Health Director shall direct the disposition of any animal found to be infected with rabies.

(Ord. of 6-17-2013(1))

Sec. 3-41. - Reports of bite cases; report by veterinarian.

- (a) Every physician, veterinarian or health care provider shall report to the ~~animal-control~~Animal Services director the names and addresses of persons treated for bites and scratches inflicted by animals that break the skin, together with such other information as will be helpful in rabies control.
- (b) Every licensed veterinarian shall report to the ~~animal-control~~Animal Services director his diagnosis of any animal observed by him to be a suspect rabid animal.

(Ord. of 6-17-2013(1))

Sec. 3-42. - Records.

The ~~animal-control~~Animal Services director shall keep or cause to be kept:

- (1) An accurate and detailed record of the licensing, impounding and disposition of all live animals, fowl and domestic birds coming into his custody and any dead dogs or cats picked up that possess rabies tags or county license; and
- (2) An accurate and detailed record of all bite cases reported to him, with a complete report of the investigation or disposition of each case.

(Ord. of 6-17-2013(1))

Sec. 3-43. - Interference.

No person shall interfere with, hinder, delay or obstruct any ~~animal-control~~Animal Services officer or authorized representative of the county in the performance of any duty under this article or seek to release any animal in the custody of the ~~animal-control~~Animal Services department or its shelter impounded pursuant to this article, except as provided by law.

(Ord. of 6-17-2013(1))

Secs. 3-44—3-49. - Reserved.

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~~ARTICLE V. LICENSING OF DOGS AND CATS~~

~~Sec. 3-50. License for dogs and cats.~~

- ~~(a) It shall be unlawful for any person to own, possess or have under his control any dogs or cats, or any combination thereof, over four months of age, without obtaining an annual privilege license for each such animal from the veterinarian administering the rabies vaccination for the animal or the Cumberland County Animal Control Department, as provided in this article.~~
- ~~(b) The annual privilege license shall be assigned the same number as the rabies vaccination certificate for each animal and shall be registered with the animal control department at the time of each annual rabies vaccination for the animal. The annual privilege license fee shall be paid to the animal control department at the time of each rabies vaccination. For rabies vaccinations of three years' duration, the annual privilege license fee shall be due on the annual anniversary date of the vaccination. It shall be the responsibility of the animal control department to notify owners with privilege license fees due in the second and third year of a three-year rabies vaccine.~~
- ~~(c) All veterinarians administering rabies vaccinations shall issue the privilege license and collect the privilege license fee at the time of the vaccination and remit the registration and fee to the Cumberland County Animal Control Department with the rabies vaccination certification in accordance with such procedures and using such forms as established by the animal control director from time to time. A participating veterinarian shall retain an administrative fee as established by the Cumberland County Board of Commissioners from time to time.~~
- ~~(d) The animal control director shall be responsible for the administration of the privilege licensing of dogs and cats and for the collection of all privilege license fees not collected and/or remitted by participating veterinarians.~~

~~(Ord. of 6-17-2013(1))~~

~~Sec. 3-51. Terms of license; exemption.~~

- ~~(a) The license issued under this article shall be renewed every year, upon proof of rabies vaccination.~~
- ~~(b) County residents who are 65 years of age or older may obtain a permanent license for up to three cats or dogs, or any combination thereof, at no cost; provided that this permanent license shall be limited to no more than three animals per household. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.~~

~~(Ord. of 6-17-2013(1))~~

~~Sec. 3-52. Issuance of records.~~

- ~~(a) The rabies vaccination tag shall constitute the privilege license tag for all dogs and cats registered for the privilege license and for which the privilege license fee has been paid. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness. The tag number shall be registered with the animal control department.~~
- ~~(b) The animal control department shall maintain records of licensed dogs and cats and such records shall be open to public inspection.~~

~~(Ord. of 6-17-2013(1))~~

~~Sec. 3-53. - Fastening of tags to collar or harness.~~

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

- (1) A durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the ~~animal control~~Animal Services department; or
- (2) An implanted ~~computer~~micro-chip capable of being scanned by a universal chip reader.

~~(Ord. of 6-17-2013(1))~~

~~Sec. 3-54. License fee in addition to other fees.~~

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~~The privilege license fee shall be in an amount established by the Cumberland County Board of Commissioners from time to time and shall be in addition to any fee in the fee schedule adopted pursuant to this chapter.~~

~~(Ord. of 6-17-2013(1))~~

~~Sec. 3-55. - Use of revenues collected from license fees.~~

~~The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the animal control department, for the cost of administration and enforcement of this chapter, and for costs associated with public education programs and activities.~~

(Ord. of 6-17-2013(1))

Sec. 3-56. - Transfer of cats and dogs.

~~(a) When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have 30 days to obtain a new privilege license for the animal.~~

(b) When ownership of a dog which has been declared dangerous or potentially dangerous under article III of this chapter is transferred within the county's jurisdiction, the previous owner shall within three business days notify the ~~animal control~~Animal Services department and provide the name and address of the new owner. The new owner shall:

- (1) Immediately register the dog with the ~~animal control~~Animal Services department; and
- (2) Ensure that the requirements of this chapter for maintaining a dangerous or potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

(Ord. of 6-17-2013(1))

Sec. 3-57. - Non-applicability of article.

The provisions of this article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are nonresidents visiting in the county for a period not exceeding 30 consecutive days.

(Ord. of 6-17-2013(1))

Secs. 3-58, 3-59. - Reserved.

ARTICLE VI. - INJURED ANIMALS; ~~ANIMAL MEDICAL STABILIZATION~~ FUND

Sec. 3-60. - Control of injured animals; Animal Medical Fund stabilization fund.

- (a) Any Animal Services ~~animal control~~ officer or law enforcement officer is authorized to take possession of any seriously injured ~~dog, cat, wildlife, livestock, bird or other~~ animal which ~~has suffered a painful and potentially mortal injury and which~~ is found in any location open or accessible to the public, any public or private vehicular right of way, or apparently off the property of its owner. ~~Any such animal which does not have a current rabies tag or identification tag shall be conclusively presumed abandoned for purposes of this article.~~
- (b) Any Animal Services ~~animal control~~ officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. ~~If the owner is promptly located, the owner shall immediately seek veterinary care of the animal or shall authorize such officer to humanely euthanize such animal.~~ If the owner cannot be promptly located or contacted, the animal ~~services~~control officer or law enforcement officer is authorized, in his or her discretion, to humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or promptly transport such animal to a veterinarian ~~participating in the injured animal stabilization fund~~ for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian ~~participating in the injured animal stabilization fund~~, his or her authorized agent for any purposes under this article. Every such owner also shall be deemed to have released any officer, or veterinarian ~~participating in the injured animal stabilization fund~~, from any cause of action or claim arising out of or related to any action such officer or veterinarian may take under this article, except for actions which constitute gross negligence.

- (c) ~~Each animal control officer or law enforcement officer acting under this article shall within a reasonable time report to the animal control director the nature and extent of the injuries of each such animal and the disposition thereof. The animal control department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.~~
- (cd) There is hereby established the Cumberland County Animal Medical Fund ~~Injured Animal Stabilization Fund~~, to which contributions, grants, donations, or restitution may be made for the purpose of providing outside veterinary care for animals in the possession of Animal Services.. ~~reimbursing veterinarians agreeing to participate with the fund in stabilizing the injuries of injured animals transported to them for stabilization under this article.~~ The director may solicit or raise funds for the fund. The fund shall be administered by a committee which shall include the Cumberland County Finance Officer or his or her designee and a veterinarian designated by the Cumberland County Animal Control Board. Funds shall be disbursed from the fund by the finance officer under guidelines established by the committee.
- (de) ~~The Animal Services Department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof. — Any animal control officer or law enforcement officer, or any veterinarian to which an injured animal may be transported under this article for stabilization of injuries, shall be deemed to be an authorized agent of and acting on behalf of Cumberland County and its animal control department pursuant to the authority of this article. Any such officer or veterinarian acting pursuant to this article shall be entitled to all the defenses, immunities and rights afforded by law or available to Cumberland County and its officers, employees or agents.~~
- (f) ~~If any owner of an animal transported under this section to a veterinarian participating in the injured animal stabilization fund shall subsequently be identified by the animal control department, he or she shall make restitution to the fund of the amount disbursed by it to the participating veterinarian.~~

(Ord. of 6-17-2013(1))

Secs. 3-61—3-69. - Reserved.

ARTICLE VII. - MISCELLANEOUS

Sec. 3-70. - Keeping chickens or rabbits; sanitation requirements.

It shall be unlawful to keep, house or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health.

(Ord. of 6-17-2013(1))

Sec. 3-71. - Stables to be kept clean.

Every stable or other place where cattle, horses or animals are kept shall be maintained at all times in a clean and healthful condition.

(Ord. of 6-17-2013(1))

Sec. 3-72. - Grazing animals.

It shall be unlawful for any owner or keeper to stake or graze any cow, horse or other animal in any park, cemetery or other public place or near any public sidewalk. This section shall not apply to horses used by any law enforcement agency for mounted patrol.

(Ord. of 6-17-2013(1)) Sec. 3-73. - Disposition of dead animals.

The owner of any animal dying from any cause within the jurisdiction of the county shall cause the same to promptly be buried in a sanitary manner within 24 hours after such owner has knowledge of such death.

(Ord. of 6-17-2013(1))

Sec. 3-74. - Selling live animals in public rights of way and other public property prohibited.

It is unlawful to sell, auction, trade, barter, and display for commercial purposes or give away any live animal within the right of way of any public highway, commercial parking lot, garage sale, flea market,

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festival, park, community center, public vehicular area, public sidewalk, public property or street within Cumberland County. The ~~animal control~~Animal Services department may immediately take custody of and impound any live animals found ~~being sold~~ in violation of this section. This section shall not apply to any animal welfare organization or humane society qualified under section 501(c)(3) of the Internal Revenue Code and approved to remove animals from the Cumberland County Animal Shelter through their standard approval process, acting pursuant to a permit issued by the animal control director, which permit may be conditioned on reasonable conditions to assure the health, welfare and safety of the animals being sold, auctioned, traded, bartered, displayed or given away.

(Ord. of 6-17-2013(1))

Sec. 3-75. - Provisions only applicable within the corporate limits of any municipality in which this chapter is applied.

- (a) No hogs, pigs, swine, or animals of the porcine family shall be kept within the corporate limits of any municipality in which this chapter is applied.
- (b) No horse, mule, pony, cow, or goat shall be stabled or housed within 100 feet of any dwelling house, school, church, or eating establishment within the corporate limits of any municipality in which this chapter is applied.
- (c) ~~No roosters, and no~~ No more than ten female chickens (hens) or rabbits shall be kept, housed, or penned at a dwelling or on the lot on which such dwelling is located within the corporate limits of any municipality in which this chapter is applied.
- (e) No cow, horse, or other animal shall be tethered or permitted to graze or stand within 30 feet of any wall, or within 50 feet of the front door, of any residence within the corporate limits of any municipality in which this chapter is applied. This subsection shall not apply to horses used by any law enforcement agency for mounted patrol.
- (f) For the purpose of section 3-15 of this chapter, [the term] "nuisance" also includes the habitual accumulation of animal feces on the owner's property in locations or amounts that produce odors that can be perceived from adjoining properties, within the corporate limits of any municipality in which this chapter is applied.
- (g) For the purpose of section 3-36(5) of this chapter, the owner of a dangerous dog shall erect a sign with the dimensions provided in that section, unless municipal sign regulations provide more stringent requirements for such warning signs in terms of size, height, and placement, within the corporate limits of any municipality in which this chapter is applied.
- (h) For the purpose of section 3-70 of this chapter, it shall be unlawful to keep, house, or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health or the code enforcement department of any municipality within the corporate limits in which this chapter is applied.

(Ord. of 6-17-2013(1))

Secs. 3-76—3-79. - Reserved.

ARTICLE VIII. - ENFORCEMENT

Sec. 3-80. - Enforcement generally.

- (a) The primary responsibility for the enforcement of this chapter shall be vested in the ~~animal control~~Animal Services department.
- (b) Any person authorized to enforce this chapter may do so by issuing a notice of violation or civil penalty citation, or by applying to the General Court of Justice for a temporary restraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.
- ~~(c) Upon information made known to or complaint lodged with the animal control department that any owner, possessor, or custodian of any dog or animal is in violation of this chapter, an animal control officer may investigate the complaint to determine whether to issue a notice of violation (civil citation) requiring the owner, possessor or custodian of the dog or animal to pay the stated civil penalty and abate the nuisance specified or whether to take such other enforcement action as may be authorized under this chapter.~~
- ~~(d) If the owner, possessor or custodian of any dog or animal is not known and the dog or animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or another's~~

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~~property without that property owner's permission, in violation of this chapter, the dog or animal shall be impounded in the animal shelter.~~

- (ce) Any decision of the ~~animal control~~Animal Services director or his designee to seize or impound any animal, other than a decision made pursuant to the provisions of article III, may be appealed to the ~~animal control~~Animal Services board for review and final decision upon the owner or keeper of such seized or impounded animal giving written notice of appeal within three business days of receiving notice of the director's decision. The ~~animal control~~Animal Services board shall afford the opportunity for a hearing to any person giving notice of appeal and shall conduct the hearing for the purpose of either affirming, reversing, or modifying the decision of the director.

(Ord. of 6-17-2013(1))

Sec. 3-81. - Penalties for violations.

- (a) Any violation of this chapter shall subject the offender to a civil penalty to be recovered by the ~~animal control~~Animal Services department in a civil action in the nature of a debt, to include the cost of abating a public nuisance. Any costs of abatement and civil penalties shall be paid within seven days of issuance of a notice of violation. Each day's continuing violation shall be a separate and distinct offense.
- (b) A notice of violation shall specify the nature of the violation and the sections of this chapter violated, and further notify the offender that the civil penalty specified therein shall be paid to the ~~animal control~~Animal Services director at the animal shelter within seven days.
- (c) Unless otherwise provided in this chapter, the civil penalty for a violation of this chapter shall be \$100.00 for a first violation or for a violation more than 12 months after a previous violation. For subsequent violations within 12 months of a previous violation, the penalty shall be \$200.00 for a second violation and \$300.00 for a third or subsequent violation within a 12-month period of the first violation.
- (d) In addition to the civil penalties prescribed in this section, any violation of this chapter, also designated as chapter 3 of the Cumberland County Code, shall also constitute a Class 3 misdemeanor punishable by a fine or not more than \$200.00 and imprisonment of not more than 20 days.
- ~~(e) The penalty for a dog biting a human causing injury which requires professional medical or hospital treatment shall be \$500.00 for the first offense.~~

(Ord. of 6-17-2013(1); Ord. of 5-4-2015(1))

6. Renewal of a Lease Agreement with Cumberland County Communicare, Inc.

BACKGROUND

Cumberland County Communicare, Inc., a local not-for-profit agency that assists people in overcoming mental health problems, substance abuse/chemical dependency, and the trauma of sexual victimization and abuse, wishes to enter into a lease agreement with Cumberland County for 13,994 square feet of office space located at 109 Bradford Avenue in Fayetteville. This agreement contains terms that mirror the prior agreement (attached) between Communicare and Cumberland County and will take the place of that agreement which will expire June 30, 2021. The agreement also continues to recognize the in-kind services that Communicare provides to the County. The rent is proposed at an annual rate of \$41,308 and will be for a three-year term. A notice of intent to lease must be published at least thirty (30) days in advance of a regular Board of Commissioners' meeting prior to approving any proposed lease as per G.S. 160A-272.

RECOMMENDATION / PROPOSED ACTION

Staff presented this item at the May 13, 2021 Board of Commissioners' Agenda Session and approved it to move forward as a Consent Agenda item for the May 17, 2021 Regular Meeting. Staff recommends approval of 1) the initial resolution of intent to lease certain real property as specified below and 2) the required 30-day advertising as per N.C.G.S. 160A-272.

On May 13, 2021, the Board of Commissioners agreed to move this forward as a Consent Agenda item to the full Board of Commissioners at the May 17, 2021 Regular Meeting. As per statute the Board is asked to adopt the following resolution: BE IT RESOLVED that the Cumberland County Board of Commissioners finds that the real property located at 109 Bradford Avenue in Fayetteville will not be needed for government purposes for the term proposed for the lease of the property to Cumberland County Communicare, Inc., and this Board intends to adopt a resolution

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at its regular meeting to be held on June 21, 2021, approving the lease pursuant to the terms to be advertised as follows:

PUBLIC NOTICE OF PROPOSED LEASE PURSUANT TO G.S. 160A-272 TAKE NOTICE that the Cumberland County Board of Commissioners has found that the real property described herein will not be needed for government purposes for the term of the lease described herein and that the Board intends to adopt a resolution at its regular meeting to be held on June 21, 2021, approving the lease of 13,944 square feet of office space located at 109 Bradford Avenue in Fayetteville to Cumberland County Communicare, Inc. for up to a three (3) year term with annual rent in the amount of forty- one thousand three hundred eight dollars (\$41,308.00) per year.

7. Professional Services Agreement with Innovative Emergency Management, Inc. to Administer the Emergency Rental Assistance Program

BACKGROUND

Cumberland County and the City of Fayetteville issued a joint Request for Proposal (RFP) to seek a qualified firm to administer the Emergency Rental Assistance Program (ERAP) in accordance with the scope of services outlined in Exhibit I and Exhibit II of the agreement attached.

With the County and City using the same firm to administer the program, this will allow residents to apply for assistance through a single application system. Using the same firm will ensure the County achieves the following goals:

- Residents will have a less complex and stressful application process;
- Residents will not have to determine the jurisdiction they live in prior to applying for assistance; Assistance is provided to the residents in a timely manner;
- The program is managed by a firm that has the capacity and experience; and
- Funds are obligated by the deadline established by the U.S. Department of Treasury.

Five proposals were received in response to the RFP. The selection committee, which consisted of three City employees and three County employees, reviewed all proposals and selected the most responsible bidder. Innovative Emergency Management (IEM) Inc. has agreed to administer the program for the County for 8% of the total amount of program funds. The estimated total amount of program funds is \$3,735,545.

The City has proceeded to contract with IEM. Cumberland County Community Development Department desires to enter into an agreement with IEM with the term beginning May 18, 2021 ending December 31, 2021.

RECOMMENDATION / PROPOSED ACTION

At the May 13, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the May 17, 2021 Board of Commissioners' Meeting:
Approve the professional services agreement with IEM as per the attached agreement.

8. Funding Agreement with Kingdom Community Development Corporation

BACKGROUND

At the Board of Commissioners meeting held on February 15, 2021, the Board approved a funding agreement with Kingdom Community Development Corporation for the organization to use Community Development funds for land acquisition, site clearance, and infrastructure and improvements on eight lots as part of a multi- phased affordable housing development project. The site is located on Elizabeth Street and Lee Street in Spring Lake. Kingdom Community Development Corporation is expected to complete this phase of the development and is preparing for Phase II which will involve construction of four single-family units.

As required by the U.S. Department of Housing and Urban Development (HUD), Cumberland County Community Development has set aside at least 15 percent of its HOME Investment Partnerships Program (HOME) allocation for specific projects to be undertaken by a private

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nonprofit, community-based organization called a Community Housing Development Organization (CHDO). The CHDO must meet certain requirements such as: maintaining a certain legal status, organizational structure, and capacity and experience. Kingdom Community Development Corporation has served as the CHDO for Cumberland County for many years and has been involved in expanding new affordable housing for both homebuyers and renters.

Community Development desires to enter into an agreement with Kingdom Community Development Corporation to construct the affordable housing units. Community Development funds in the amount up to \$500,000 are available for construction (Phase II) of this project. Once completed, the project will serve households with an income at or below 80% of the area median income.

RECOMMENDATION / PROPOSED ACTION

At the May 13, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the May 17, 2021 Board of Commissioners' Meeting:

Approve the funding agreement with Kingdom Community Development Corporation in the amount not to exceed \$500,000.

9. Policy Prohibiting Sales of Surplus Property to Bidders with Delinquent Property Taxes

BACKGROUND

Commissioner Keefe has proposed the Board not to sell surplus real property to bidders who have delinquent property taxes. If the Board wishes to make that a policy, it can do so with the statutory authority to reject bids for surplus property sold subject to the upset bid process. Sometimes bidders make a bid on behalf of another party or assign their bid. For that reason, it will be necessary to require the bid to be made by the party to whom the deed will be made and prohibit the assignment of bids. Attached is a proposed amendment for this purpose to the Policy Establishing the Minimum Bid to Be Considered for the Purchase of Surplus Real Property adopted by the Board February 18, 2019.

RECOMMENDATION / PROPOSED ACTION

If the Board wishes to amend its policy for this purpose, the county attorney recommends the proposed amendment be adopted. At the May 13, 2021, Agenda Session, the Board voted unanimously to recommend adopting this amended policy.

Cumberland County Board of Commissioners Policy Establishing the Minimum Bid to Be Considered for the Purchase of Surplus Real Property

Whereas, the Board of Commissioners has established a procedure through the Office of the County Attorney for the sale of the County's surplus real property for the purpose of getting the property back on the tax roll as taxable property; and

Whereas, the Board of Commissioners finds it is contrary to the Board's purpose of getting this property back on the tax rolls to sell it to bidders who owe delinquent property taxes.

Therefore, the Board of Commissioners amends its Policy Establishing the Minimum Bid to be Considered for the Purchase of Surplus Real Property as follows:

1. The Board of Commissioners requests the tax office to review all surplus real property annually and adjust the tax value through the informal appeal process as determined by the review.

2. For foreclosures commenced after the February 18, 2019, in which the county becomes the purchaser, the Board of Commissioners elects, pursuant to N.C.G.S. § 105-376(b), to pay only that part of the purchase price that would not be distributed to it and other taxing units on account of taxes, penalties, interest, and such costs as accrued prior to the initiation of the

foreclosure action; and the county shall hold the property for the benefit of all taxing units that have an interest in it.

3. The resale of properties acquired by the county through tax foreclosures shall be in accordance with N.C.G.S. § 105-376(c).

4. For the first five years after a property acquired by the county through a tax foreclosure is designated as surplus property, the minimum offer to be accepted for consideration by the Board of Commissioners shall be the amount of the foreclosure judgment or the tax value, whichever is less.

5. After five years on the surplus list, the minimum offer to be accepted for consideration by the Board of Commissioners shall be the estimated cost of advertising for the upset bid process, but not less than \$300.

6. All bids shall be made in the name of the person or entity intended to be the grantee in the deed for the property and bids shall not be assigned except with the consent of the Board of Commissioners.

7. No bid shall be accepted from any bidder who owes delinquent property taxes to the Cumberland County Tax Collector.

8. No sale shall be approved for any bidder who shall become delinquent in property taxes due to the Cumberland County Tax Collector after the bidder's bid has been accepted by the Board of Commissioners.

9. The County Attorney shall implement a procedure to determine whether any bidder has delinquent property taxes.

Adopted February 18, 2019, and May _____, 2021.

10. Grant of Utility Easement to the City of Fayetteville

BACKGROUND

The County and the City acquired the property with PIN 9487-561-4777 at a tax foreclosure in 2008 by a deed recorded in Book 8018 at page 3. The County paid the City \$499.85 for its taxes in the foreclosure. The City requests a utility easement on this lot as shown on the plat and proposed easement document attached. This is a land-locked parcel for which the County paid the full amount of the foreclosure costs in the amount of \$2,257.53 in addition to the City's taxes. This parcel was never declared surplus or put on the surplus list. With it being landlocked, it is unlikely to sell except to an adjoining property owner.

RECOMMENDATION / PROPOSED ACTION

County attorney recommends:

- (1) offering this parcel to the City for \$500 to recover the amount paid to the City, which will relieve the County of responsibility for it; or
- (2) approving the easement and declaring the property surplus.

At the May 13, 2021, Agenda Session, the Board voted unanimously to recommend offering this parcel to the City for \$500 and if the City declined the offer, to grant the easement.

11. NCDOT Notice of Necessity to Relocate a Grave at 7945 Camden Road, Fayetteville

BACKGROUND

NCDOT has requested the Board of Commissioners to direct the disinterment of a grave within the right of way of the Fayetteville Outer Loop and reinterment of the grave to a different location on the same parcel. The property on which the grave is to be moved has the address of 7945 Camden Road, Fayetteville. N.C.G.S. § 65-106 requires that all grave removals be made under the

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supervision and direction of the county board of commissioners. The attached Resolution states the Board of Commissioners directs the relocation of the grave in accordance with the statutory requirements. One of the requirements is that a certificate of the facts of the removal of the grave be recorded in the Register of Deeds. The Resolution directs the NCDOT to provide a copy of the recorded certificate to the county attorney.

RECOMMENDATION / PROPOSED ACTION

County attorney recommends the Board approve the Resolution to relocate this grave.

At the May 13, 2021, Agenda Session, the Board voted unanimously to recommend adoption of this Resolution.

Cumberland County Board of Commissioners
Resolution Directing the Removal of a Grave Located on the Parcel with the Address of
7945 Camden Road, Fayetteville, by the North Carolina Department of Transportation
in Accordance with N.C.G.S. § 65-106

Whereas, the North Carolina Department of Transportation (NCDOT) is an agency of the State of North Carolina with the authority to effect the disinterment, removal, and reinterment of graves pursuant to N.C.G.S. § 65-106(a)(1); and

Whereas, NCDOT has advised the Board of Commissioners of the necessity for NCDOT to disinter one grave lying within the proposed right of way of State Project U- 2519BA (Fayetteville Outer Loop) on the parcel with the address of 7945 Camden Road, Fayetteville, and relocate the grave on the remnant of the same parcel, as shown in the Notice and Map attached hereto.

Be it resolved that the Board of Commissioners finds it is necessary for the NCDOT to disinter, remove, and reinter this grave as described in the Notice and Map referenced above.

Be it further resolved that the Board of Commissioners directs that the disinterment, removal, and reinterment of this grave shall be done in accordance with all the requirements of N.C.G.S. § 65-106 with a copy of the recorded certificate of the removal facts to be provided to the Cumberland County Attorney.

Adopted May 17, 2021.

12. Cumberland-Hoke Regional Hazard Mitigation Plan

BACKGROUND

Many natural disasters are predictable, and much of the damage caused by these events can be reduced or eliminated. In an effort to reduce the mounting disaster losses, the U.S Congress passed the Disaster Mitigation Act of 2000. This act emphasized the need for State and Local Government to closely coordinate on mitigation planning activities and made the development of a hazard mitigation plan a specific eligibility requirement for any local government applying for federal mitigation grant funds. These funds include the Hazard Mitigation Grant Program, Pre-disaster Mitigation Program, and Flood Mitigation Assistance Program, all of which are administered by the Federal Emergency Management Agency (FEMA). The hazard mitigation plan must be updated every 5 years, and in many cases plans are done on a regional basis to be more cost effective.

Cumberland and Hoke Counties in conjunction with AECOM, FEMA Region IV, North Carolina Emergency Management, and community representatives worked together to update the existing plan. This process was inclusive of a Hazard Mitigation Planning Committee that included all the jurisdictions of both Cumberland and Hoke counties, private business, and volunteer organizations. A public meeting was also held on February 27th, 2020 to get input from the public. The updated plan has been reviewed by the State and is currently awaiting FEMA review.

The full plan can be accessed at the following link:

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https://www.co.cumberland.nc.us/docs/default-source/emergency-services-documents/hazard-mitigation-plan-final-draft.pdf?sfvrsn=3064fdb5_0

RECOMMENDATION / PROPOSED ACTION

This item was heard at the May 13, 2021 Board of Commissioners' Agenda Session and approved to move forward as a Consent Agenda Item for the May 17, 2021 regular meeting of the Board of Commissioners. Cumberland County Emergency Services is recommending that the Cumberland County Board of Commissioners adopt a resolution supporting the updates reflected in the Cumberland-Hoke Regional Hazard Mitigation Plan.

RESOLUTION ADOPTING CUMBERLAND-HOKE REGIONAL HAZARD MITIGATION PLAN

WHEREAS, the citizens and property within Cumberland County are subject to the effects of natural hazards that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to drought, extreme heat, hailstorm, hurricane and tropical storm, lightning, thunderstorm wind/high wind, tornado, winter storm and freeze, flood, hazardous material incident, and wildfire; and

WHEREAS, the County desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has enacted General Statute Section 166A-19.41 (*State emergency assistance funds*) which provides that for a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and.

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

WHEREAS, the County of Cumberland has performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and has updated the said plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the Board of Commissioners of Cumberland County to fulfill this obligation in order that the County will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the County;

NOW, THEREFORE, be it resolved that the Board of Commissioners of Cumberland County hereby:

1. Adopts the Cumberland-Hoke Regional Hazard Mitigation Plan.
2. Vests Cumberland County Emergency Services with the responsibility, authority, and the means to:

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- (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent exacerbation of existing hazard impacts.
3. Appoints Cumberland County Emergency Services to assure that the Hazard Mitigation Plan is reviewed annually, and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Davidson County Board of Commissioners for consideration.
4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

Adopted this the 17th day of May 2021.

MOTION: Commissioner Adams moved to approve consent agenda items 3.A. – 3.N.12.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (6-0)

Chairman Evans asked to be excused from the meeting and stated Vice Chairman Adams would preside over the remainder of the meeting. Consensus followed.

3. PUBLIC HEARINGS

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

A. Text Amendment to Chapter 4, Article IV - Minimum Housing Code

BACKGROUND

The Planning and Inspections Department has received an application for appeal of a minimum housing order from our Code Enforcement staff. Per Chapter 4, Article IV of the County's Code of Ordinances, a citizen has the right to appeal the decision to the Housing Appeals Board of the County.

Upon review, the Housing Appeals Board is currently unfilled and non-operational. In an effort to streamline workflow, reduce administrative burden, and better focus energies of the appointed boards, staff is recommending a text amendment to the County Code of Ordinances to move the duties of the Housing Appeals Board to the County's Board of Adjustment.

Moving housing appeals to the Board of Adjustment has a number of benefits. The department receives these appeals very sporadically. Staff believes there is not enough workload to justify a separate board. Additionally, these appeal hearings are quasi-judicial in nature and based on findings. As the land use, quasi-judicial appeal body for the County, these housing appeal cases can very easily be assimilated into the Board of Adjustment's work plan.

Planning staff has reviewed the proposed action and text amendment with the County Attorney's office. The duties of the Board of Adjustment were modified as part of the recent 160D Zoning Ordinance adoption to begin accommodating this shift. However, in order to finalize the shift in duties, Section 4-70 of the County Code of Ordinances needs to be amended.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the proposed text amendment. At the May 13, 2021 Agenda Session Meeting, the Board of Commissioners approved holding a public hearing on this item at their May 17, 2021 Board of Commissioner's meeting.

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Text Amendment:

Chapter 4 – Buildings and Building Regulations

Article IV – Minimum Housing Code

Division 1. – Generally

Sec. 4-70. – Board of Adjustment to serve as Housing appeals board.

~~(a) There is hereby created a housing appeals board. The Cumberland County Board of Adjustment shall serve as the body to which appeals may be taken from decisions or orders of the public officer inspectors as provided in section 4-84. The board shall consist of five members to serve for three-year staggered terms. The board shall have power to elect its own officers; to fix the times and places of its meetings; to adopt necessary rules of procedure; and any other rules and regulations which may be necessary for the proper discharge of its duties.~~ The board shall perform the duties prescribed by this division and shall keep an accurate record of all its proceedings.

~~(b) The board of county commissioners shall appoint the five regular members of the housing appeals board for the terms specified above. The board of county commissioners shall also appoint five alternate members at large to serve on the housing appeals board in the absence of any regular member. Alternate members shall be appointed to serve three-year staggered terms. Each alternate member, while attending any regular or special meeting of the housing appeals board and serving in the absence of any regular member, as provided in the rules of procedure of such board, shall have and exercise all the powers and duties of any regular member absent from the meeting.~~

Rawls Howard, Planning and Inspections Director, presented the background information recorded above and highlighted changes in the proposed text amendment that would move the duties of the Housing Appeals Board to the County's Board of Adjustment. In response to a question posed by Commissioner Boose, Mr. Howard stated from the perspective of citizens, an active Board of Adjustment serving as the House Appeals Board will ensure they have due process in place.

Vice Chairman Adams opened the public hearing.

The clerk to the board stated there were no speakers.

Vice Chairman Adams closed the public hearing.

MOTION: Commissioner Lancaster moved to approve the Text Amendment to Chapter 4, Article IV - Minimum Housing Code.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (5-0)

B. Proposed Economic Development Incentive Agreement with Sky REM, LLC

BACKGROUND

In prior closed sessions, the Board has considered the offers of Sky REM, LLC, a commercial developer, to purchase the remaining land in the Cedar Creek Industrial Park, adjoining Clark West Road, and the “Sand Hills Road Site” fronting Sand Hills Road and Production Drive, as an economic development incentive agreement requiring the developer to construct commercial buildings on these sites. The specifics of the two projects are as follows:

Project 1: The County will sell to the developer the remaining property in the Cedar Creek Industrial Park, adjoining Clark West Road, being three parcels as follows:

REID 0454692037000, containing 275.99 acres with a tax value of \$1,615,405

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REID 0455904543000, containing 48.30 acres with a tax value of \$ 430,469

REID 0455910088000, containing 31.67 acres with a tax value of \$ 292,585

These parcels will be sold at \$10,000 per acre for a total of \$3,559,600 subject to adjustment for the surveyed acreage. The Board of Commissioners has determined \$10,000 per acre to be the fair market value. The developer will construct not less than 40,000 square feet of commercial buildings on this site within three years of closing.

Project 2: The County will sell to the developer the property known as the “Sand Hills Road Site” fronting Sand Hills Road and Production Drive with REID 0433333511000, containing 159.03 acres, with a tax value of \$803,745 at \$18,800 per acre for a total of \$2,989,764, subject to adjustment for the surveyed acreage. The Board of Commissioners has determined \$18,800 per acre to be the fair market value. The developer will construct a commercial building or buildings of not less than 120,00 square feet on this site by May 1, 2025.

Each of these agreements will have a claw-back provision which will allow the County to repurchase the sites if the developer does not construct the commercial buildings. The developer will purchase the entirety of these parcels, including any wetlands, at the purchase price per acre as indicated for each, subject to obtaining the exact acreage by a current survey.

The public hearing for this proposed incentive agreement was published in the Fayetteville Observer May 6, 2021. The Publisher’s Affidavit is attached.

RECOMMENDATION / PROPOSED ACTION

If the Board wishes to complete the sale of these parcels to this developer as an economic development incentive agreement, the county attorney advises the Board to adopt the attached resolution.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT FOR THE SALE AND DEVELOPMENT OF THE REMAINING PROPERTY IN THE CEDAR CREEK INDUSTRIAL PARK AND THE SANDHILLS ROAD SITE

Whereas, the Board of Commissioners acquired and improved the land to create the Cedar Creek Industrial Park (the Cedar Creek Site) and the Sand Hills Road Site more than thirty years ago;

Whereas, the Board’s purpose in acquiring and improving these sites was for the location of commercial buildings to provide employment and increase the tax base of the County;

Whereas, Sky REM, LLC, a commercial developer, has offered to purchase these sites at fair market value and construct commercial buildings on each;

Whereas, the Board of Commissioners finds the price negotiated for the sale of these sites is the fair market value of each site, considering the portions of each site that may be unsuitable for certain development due to soil conditions and topography; and

Whereas, the Board of Commissioners finds that the commercial development of these sites will increase the tax base of and employment within Cumberland County.

Now therefore be it resolved that the Board of Commissioners makes this offer of agreement with Sky REM, LLC, a commercial developer as, an economic development incentive agreement pursuant to G.S. § 158-7.1 as follows:

1. The remaining parcels in the Cedar Creek Site will be sold to the developer in its entirety at a purchase price of \$10,000 per acre with the exact acreage to be determined by a survey to be obtained at the purchaser’s expense. These parcels are:

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REID 0454692037000, containing 275.99 acres with a tax value of \$1,615,405 REID 0455904543000, containing 48.30 acres with a tax value of \$ 430,469 REID 0455910088000, containing 31.67 acres with a tax value of \$ 292,585

2. The total sales price of the Cedar Creek Site will be \$3,559,600, as may be adjusted by the survey-determined acreage.

3. The developer shall construct a commercial building or buildings of not less than 40,000 square feet in enclosed area on the Cedar Creek Site within three years of closing the sale.

4. The Sand Hills Road Site, fronting Sand Hills Road and Production Drive, with REID 0433333511000, containing 159.03 acres, with a tax value of \$803,745 will be sold to the developer in its entirety at a purchase price of \$18,800 per acre with the exact acreage to be determined by a survey to be obtained at the purchaser's expense.

5. The total sales price of the Cedar Creek Site will be \$2,989,764, as may be adjusted by the survey-determined acreage.

6. The developer shall construct a commercial building or buildings of not less than 120,000 square feet in enclosed area on the Sandhills Road Site by May 1, 2025.

7. The developer shall complete the purchase of these sites by November 1, 2021.

8. The agreement shall be subject to a claw-back provision that allows the County to repurchase these sites from the developer if the developer does not build the commercial buildings as described.

9. The economic development incentive agreement shall include such other terms and conditions as necessary to comply with the requirements of G.S. § 158-7.1.

Adopted May 17, 2021.

County Attorney Rick Moorefield presented the background information recorded above. Mr. Moorefield stated should the Board wish to complete the sale of these parcels to this developer, he advises the Board to adopt the resolution recorded above to meet the statutory requirements the Board must find to enter into the economic development incentive agreement. Mr. Moorefield reviewed findings and terms laid out in the resolution.

Vice Chairman Adams opened the public hearing.

The clerk to the board stated there were no speakers.

Vice Chairman Adams closed the public hearing.

MOTION: Commissioner Boose moved to approve the economic development incentive agreement with Sky REM, LLC and adopt the resolution.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (5-0)

Robert Van Geons, Fayetteville Cumberland Economic Development Corporation President/CEO, introduced the broker on the project, Tommy Turner, and Frank Janos with Sky REM, LLC.

Uncontested Rezoning Cases

C. Case P21-21: Rezoning of 1.20+/- acres from A1 Agricultural to RR Rural Residential or to a more restrictive zoning district, located at 6285 and 6291 Braxton Road, submitted by Marcus G. McLean (owner).

Mr. Howard showed vicinity or location maps and aerial views of the subject property. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions and the availability of water and sewer. Mr. Howard stated staff recommended approval of the request and the Planning Board unanimously recommended approval. Mr. Howard stated the request is not plan compliant and if approved, it would necessitate a plan amendment. Mr. Howard responded to questions posed by Commissioner Keefe related to the number of units allowed under various residential zoning designations. Mr. Howard stated this case would be considered low density and the assumption is that there will be future residential development in the area.

Vice Chairman Adams opened the public hearing for Case P21-21.

The clerk to the board stated there were no speakers for Case P21-21.

Vice Chairman Evans closed the public hearing for Case P21-21.

MOTION: Commissioner Lancaster moved in Case P21-21 to approve the rezoning request from A1 Agriculture to RR Residential, and find:

- a. The approval is an amendment to the adopted, current South Central Land Use Plan map and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request;
- b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: proximity to other Low Density and Suburban Residential to the north and northwest, transition between residential areas to the north and agriculture uses to the south, and location at the interchange of I-95 and Braxton Road; and
- c. This rezoning approval is reasonable and in the public interest because the district requested is in harmony with surrounding zoning and existing land uses.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (5-0)

D. Case P21-22: Rezoning of 0.71+/- acres from A1 Agricultural to R30 Residential or to a more restrictive zoning district, located at 3618 Gabe Smith Road, submitted by Louretha K. McKethan (owner).

Mr. Howard showed vicinity or location maps and aerial views of the subject property. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions and the availability of water and sewer. Mr. Howard stated the request is plan compliant; staff recommended approval of the request and the Planning Board unanimously recommended approval.

Vice Chairman Adams opened the public hearing for Case P21-22.

The clerk to the board stated there were no speakers for Case P21-22.

Vice Chairman Adams closed the public hearing for Case P21-22.

MOTION: Commissioner Keefe moved in Case P21-22 to approve the rezoning request from A1 Agriculture to R30 Residential and find the request consistent with the Eastover Land Use Plan designation of "Rural" as the R30 zoning category is consistent with this land use designation. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (5-0)

E. Case P21-23: Rezoning of 1.95+/- acres from R6A Residential to C2(P) Planned Service and Retail/CZ Conditional Zoning for trade contracting and retail or to a more restrictive zoning district, located on the north side of SR 1141 (Cumberland Road) and south of SR 1144 (Sterling Drive), submitted by Gary Duane McGuire Jr. (owner).

Mr. Howard showed vicinity or location maps and aerial views of the subject property. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions and the availability of water and sewer. Mr. Howard stated the request is consistent with the Southwest Cumberland Land Use Plan designation of "Heavy Commercial" and the zoning category is consistent with this land use designation; staff recommended approval of the request and the Planning Board unanimously recommended approval.

Vice Chairman Adams stated for the record, he has been consistent with his concern about the lack of public sewer along Cumberland Road and the continued rezoning and development.

Vice Chairman Adams opened the public hearing for Case P21-23.

The clerk to the board stated there were no speakers for Case P21-23.

Vice Chairman Adams closed the public hearing for Case P21-23.

Commissioner Keefe stated this is not a new concern because over the last several years this area has been transitioning to commercial and the question at the onset of the transition was what the plan was for sewer along Cumberland Road. Discussion followed. Vice Chairman Adams stated this matter needs to be placed on an agenda. Commissioner Keefe stated the lack of public sewer is not the applicant's fault and he will support the request even though he does not like that sewer has to be addressed through on-site septic. Commissioner Keefe stated once the on-site septic tanks begin failing, property owners will look to the county. Commissioner Boose requested another copy of the Cumberland Road Business Street Plan and stated he will bring the matter up at the next PWC meeting.

MOTION: Commissioner Keefe moved in Case P21-23 to approve the rezoning request from R6A to C2(P)/CZ Conditional Zoning, subject to the conditions of approval and conditional use site plan and find the request consistent with the Southwest Cumberland Land Use Plan designation of "Heavy Commercial". Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning.

SECOND: Commissioner Lancaster

VOTE: PASSED (3-2) (Commissioners Keefe, Boose, and Lancaster voted in favor; Commissioners Adams and Stewart voted in opposition)

F. Case P21-24: Rezoning of 72.60+/- acres from A1 Agricultural to R40 Residential or to a more restrictive zoning district, located on the east side of SR 1609 (W Reeves Bridge Road) and

north of US 401 (Ramsey Street), submitted by Margaret Collier Heirs (owner) and Ben Stout (agent).

Rawls Howard, Planning and Inspections Director, showed vicinity or location maps and aerial views of the subject property. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions and the availability of water and sewer. Mr. Howard stated the request is not plan consistent because the plan promotes zoning categories with a slightly higher development density than what is allowed in the R40 district; a plan amendment will be necessary if the request is approved.

Commissioner Keefe inquired about the source for water. Mr. Howard stated the property can be served by Harnett County water. Vice Chairman Adams stated the Little River abuts the northern property line and asked whether the property flooded during the last two hurricanes. Mr. Howard stated the northern areas of the property have the presence of hydric inclusion soils which indicate the potential for the presence of hydric soils and flood plain issues. Mr. Howard stated it would have to be engineered to meet all of FEMA's requirements for flood staging and elevation. In response to a question posed by Commissioner Boose, Mr. Howard stated there was no opposition at the meeting of the Planning Board. Commissioner Boose asked whether the property owners signed any documents stating they were fine with the characteristics of the property. Mr. Howard stated that is typically not part of the Planning Department's process.

Vice Chairman Adams opened the public hearing for Case P21-24.

The clerk to the board stated there were no speakers for Case P21-24.

Vice Chairman Adams closed the public hearing for Case P21-24.

MOTION: Commissioner Keefe moved in Case P21-24 to approve the rezoning request from A1 Agriculture to R40 Residential, and find:

- a. The approval is an amendment to the adopted current North Central Land Use Plan map; and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request;
- b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the request allows a larger lot size than that promoted by the North Central Land Use Plan; larger lots promote open space along the Little River than small lot areas promoted by the North Central Land Use Plan; and,
- c. This rezoning approval is reasonable and in the public interest because the district requested is in harmony with surrounding zoning and existing land uses.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (5-0)

G. Case P21-25: Rezoning of 1+/- acres from A1 Agricultural and RR Rural Residential to RR Rural Residential or to a more restrictive zoning district, located at 2952 and 2958 Blossom Road, submitted by William D. and Sylvia Warren (owners).

Rawls Howard, Planning and Inspections Director, showed vicinity or location maps and aerial views of the subject property. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions and the availability of water and sewer. Mr. Howard stated the request is to fix split zoning and assign a single zoning category to the parcel for future development. Mr. Howard stated the request is plan compliant; Planning staff recommended approval and the Planning Board unanimously recommended approval. Commissioner Boose asked whether the Warrens owned other properties in the area because not much can be done with 1-acre when it is split by a road or whether they are just trying

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to straighten up their 1-acre. Mr. Howard stated he thinks the owners are just trying to straighten up their 1-acre.

Vice Chairman Adams opened the public hearing for Case P21-25.

The clerk to the board stated there were no speakers for Case P21-25.

Vice Chairman Adams closed the public hearing for Case P21-25.

MOTION: Commissioner Keefe moved in Case P21-25 to approve the rezoning request from A1 Agriculture and RR Rural Residential to RR Rural Residential, and find:
a. The approval is an amendment to the adopted, current South Central Land Use Plan map; and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request;
b. The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: assigns a single zoning category to the same small parcel; and
c. This rezoning approval is reasonable and in the public interest because the district requested is in harmony with surrounding zoning and existing land uses.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (5-0)

Other Public Hearings

H. Street Renaming Case SN0479

BACKGROUND

Due to North Carolina Department of Transportation projects, Farmers Road was severed by NC Hwy 295. With the implementation of the Next Gen E911 standards you cannot have two streets with the same name within the County. The best solution was to rename the north side of NC Hwy 295 to N Farmers Road and the south side to S Farmers Road. Our staff contacted every parcel owner that abutted Farmers Road. They were given the chance to agree or disagree with the solution. Thirty- seven property owners were contacted, and the majority agreed with the proposed solution.

Current Names	PROPOSED
FARMERS ROAD	N FARMERS ROAD
FARMERS ROAD	S FARMERS ROAD

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the street name change.

Cumberland County Board of Commissioners
Ordinance Renaming Farmers Road to N. Farmers Road and S. Farmers Road

This Ordinance Renaming Farmers Road to N. Farmers Road and S. Farmers Road is authorized by G.S. § 153A-239.1 and is enacted pursuant to Sec. 4-172 of the Cumberland County Code.

Whereas, SR1612, Farmers Road, has been severed by NC Hwy 295; and

Whereas, the northern portion of SR1612 Farmers Road off of SR1611 Andrews Road will be N. Farmers Road and the southern portion of SR1612 Farmers Road off of Ramsey Street will be S. Farmers Road; and

Whereas, to avoid the potential confusion, the Board of Commissioners finds it necessary to rename SR1612 Farmers Road between Andrews Road and Ramsey Street; and

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Whereas, a duly advertised public hearing was conducted on this matter at the May 17, 2021, regular meeting of the Board of Commissioners.

Now therefore be it ordained as follows:

(!) Farmers Road lying between SR1611 Andrews Road and Ramsey Street, is hereby renamed N. Farmers Road and S. Farmers Road.

(1) Planning staff is directed to cause notice of this action to be given to the local postmaster with jurisdiction over the road, to the Board of Transportation, and to any city within five miles of the road.

Adopted May 17, 2021.

Mr. Howard presented the background information recorded above and reviewed maps of the portions to be renamed on Farmers Road.

Vice Chairman Adams opened the public hearing.

The clerk to the board stated there were no speakers.

Vice Chairman Adams closed the public hearing.

MOTION: Commissioner Boose moved to approve the street name change for the portions identified to N. Farmers Road and S. Farmers Road.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (5-0)

4. ITEMS OF BUSINESS

A. REMOVED FROM AGENDA.

B. Renewal of a Lease Agreement with Easter Seals UCP of North Carolina and Virginia

BACKGROUND

Easter Seals UCP of North Carolina and Virginia, Inc. provides support and services for children with intellectual developmental disabilities at the Dorothy Spainhour Center where specially trained teachers and therapists work with local clients and families. The current lease agreement for this 12,310 square foot facility, located at 223 Hull Road in Fayetteville, will expire June 30, 2021, and Easter Seals wishes to renew the lease for a three (3) year term for one dollar (\$1.00) per year. A notice of intent to lease must be published at least thirty (30) days in advance of a regular Board of Commissioners' meeting prior to approving any proposed lease as per G.S. 160A-272.

RECOMMENDATION / PROPOSED ACTION

This item was heard at the May 13, 2021 Board of Commissioners' Agenda Session and received a 4-2 vote by the Board and will move to the May 17, 2021 Regular Meeting for further consideration. Staff recommends approval of 1) the initial resolution of intent to lease certain real property and 2) the required 30-day advertising as per N.C.G.S. 160A-272.

As per statute the Board is asked to adopt the following resolution:

BE IT RESOLVED that the Cumberland County Board of Commissioners finds that the real property located at 223 Hull Road in Fayetteville will not be needed for government purposes for the term proposed for the lease of the property to Easter Seals UCP of North Carolina and Virginia, Inc., and this Board intends to adopt a resolution at its regular meeting to be held on June 21, 2021, approving the lease pursuant to the terms to be advertised as follows:

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PUBLIC NOTICE OF PROPOSED LEASE PURSUANT TO G.S. 160A-272. TAKE NOTICE that the Cumberland County Board of Commissioners has found that the real property described herein will not be needed for government purposes for the term of the lease described herein and that the Board intends to adopt a resolution at its regular meeting to be held on June 21, 2021, approving the lease of approximately 12,310 square feet of space located at 223 Hull Road in Fayetteville to Easter Seals UCP of North Carolina and Virginia, Inc. for up to a three (3) year term with annual rent in the amount of one dollar (\$1.00) per year

Tracy Jackson, Assistant County Manager, presented the background information recorded above and stated the request is to approve the initial resolution of intent to lease the property and advertise the notice of intent at least thirty (30) days in advance of the Board of Commissioners' June 21, 2021 meeting during which the proposed lease will be submitted for approval.

Commissioner Boose asked whether the county provided the utilities and maintenance with this one dollar (\$1.00) per year lease. Mr. Jackson stated the tenant pays the utilities and provides the maintenance, and the Facilities Manager conducted a recent inspection. Mr. Jackson stated there was a fire at the facility in 2020 and all improvements have been made and the facility has been brought back and is fully functional. Commissioner Boose stated Easter Seals UCP of North Carolina and Virginia, Inc. is a multi-billion-dollar corporation and as opposed to leasing the property, he would prefer to sell it to them if they are interested.

Commissioner Keefe stated he does not want to take away from the services provided by Easter Seals at this facility; however, this particular section of Easter Seals paid over \$3.5 million for facilities last year and for a lease of one dollar (\$1.00) per year, that may be the reason they are not interested in buying the facility. Commissioner Keefe stated the county is short on space, the facility is in a prime location and the county pays market rate for buildings it leases.

Vice Chairman Adams stated although he understands the concerns expressed by Commissioners Boose and Keefe, he sits on the board of Action Pathways and there are not enough Headstart programs for children in this community. Vice Chairman Adams stated Easter Seals does a tremendous job for this community and asked what the long-term cost would be to the community if Easter Seals were to leave; parents would say it's worth everything the county does for Easter Seals. Vice Chairman Adams stated the school system is likely unable to pick up the 90 slots. Commissioner Lancaster concurred. Vice Chairman Adams stated he supports the one-dollar (\$1.00) lease per year because of what Easter Seals does for the community.

MOTION: Commissioner Lancaster moved to approve the initial resolution of intent to lease the property and advertise the notice of intent at least thirty (30) days in advance of the Board of Commissioners' June 21, 2021 meeting.

SECOND: Commissioner Stewart

VOTE: PASSED (3-2) (Commissioners Adams, Lancaster and Stewart voted in favor; Commissioners Boose and Keefe voted in opposition)

5. NOMINATIONS

A. Senior Citizens Advisory Commission (2 Vacancies)

Commissioner Adams nominated Brenda Harris and Cynthia Johnson.

6. APPOINTMENTS

A. Senior Citizens Advisory Commission (4 Vacancies)

MOTION: Commissioner Adams moved to appoint Pamela Collings, Donald Bennett, Nettie Hayes Miller and Reva McNair to the Senior Citizens Advisory Commission.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (5-0)

7. CLOSED SESSION

No closed session was held.

MOTION: Commissioner Lancaster moved to adjourn.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (5-0)

There being no further business, the meeting adjourned at 8:00 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board