

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, AUGUST 16, 2021 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR MEETING MINUTES

PRESENT: Commissioner Charles Evans, Chairman
Commissioner Glenn Adams, Vice Chairman
Commissioner Michael Boose
Commissioner Jeannette Council
Commissioner Jimmy Keefe
Commissioner Larry Lancaster
Commissioner Toni Stewart
Amy Cannon, County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Angel Wright-Lanier, Assistant County manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Jermaine Walker, Engineering and Infrastructure Director
Rawls Howard, Planning and Inspections Director
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Chairman Evans provided the invocation followed by the Pledge of Allegiance to the American flag.

PUBLIC COMMENT PERIOD

Amy Cannon, County Manager, read the public comment policy. Chairman Evans recognized the clerk to the board who stated there were no speakers.

1. APPROVAL OF AGENDA

MOTION: Commissioner Council moved to approve the agenda.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (7-0)

2. PRESENTATIONS

Chairman Evans called Cumberland County Attorney Rick Moorefield to the podium and conducted the following recognition.

Mr. Moorefield has spent much of his legal career representing and serving local governments across the State of North Carolina. Prior to being appointed as the Cumberland County Attorney in 2010, Mr. Moorefield was the County Attorney and County Manager in Sampson County; and an Assistant County Attorney in Cumberland County. He has also served as County Attorney for Macon and Alamance Counties. In addition, he is a former Alamance County Commissioner. He is a native of North Carolina and a graduate of the University of North Carolina School of Law, and he earned a master's degree in Public Administration from UNC-Greensboro. He is an acknowledged expert in local government law, recognized both across the State of North Carolina and nationally. Mr. Moorefield was named the Outstanding County Attorney of the Year in 2019 by his peers at the North Carolina Association of County Attorneys. He is a former President of that Association. Most recently, he was elected as the President of the National Association of County Civil Attorneys, a position he currently holds. He is also a member of the National Association of Counties Board of Directors. The Board of

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Commissioners would like to present this clock to Mr. Moorefield in recognition of his service as the president of the National Association of County Civil Attorneys and a member of the NACo Board of Directors.

Chairman Evans called District Attorney Billy West to the podium and conducted the following recognition.

Mr. West was elected as Cumberland County District Attorney in 2010 after serving 10 years as an assistant district attorney for former DA Ed Grannis. As Cumberland County District Attorney, Mr. West leads the fourth largest District Attorney's Office in North Carolina. He has created a repeat offender program to identify and successfully prosecute offenders who continue to commit serious crimes in our community. Mr. West and his staff have partnered with law enforcement and others in the court system on initiatives such as: the Gun Violence Task Force, Drug Court, Sobriety Court, Veterans Court, and Human Trafficking Court. I would like to thank Mr. West for his work with expungement clinics which have helped more than 1,000 people who were eligible to expunge a one-time non-violent offense from their records. Mr. West is also involved in statewide and national organizations. He is a member of the North Carolina District Attorneys Association and of the North Carolina Conference of District Attorneys. He was elected by his fellow District Attorneys in the state to serve as President of the North Carolina Conference of District Attorneys, which selected him to serve as North Carolina's Representative on the National District Attorneys Association's Board. In July, he was sworn in as the president of the National District Attorneys Association, after serving as the association's treasurer. He was born and raised in Cumberland County, and he received his bachelor's degree from NC State University and his law degree from Campbell University. The Board of Commissioners would like to present this clock to Mr. West in recognition of his service as the president of the National District Attorneys Association.

Vice Chairman Adams, with Chairman Evans joining him at the podium, conducted a recognition of former County Commissioner Virginia Oliver who was inducted into the North Carolina Association of County Commissioners' Hall of Fame at the 114th NCACC Annual Conference August 12-14, 2021. Ms. Oliver unable to be present at the meeting. Vice Chairman Adams read the comments provided by NCACC Executive Director Kevin Leonard when presenting the Hall of Fame award at the conference.

Part of what makes our organization so strong is we remember our past and particularly, those leaders who came before us who made a difference. During the past year, we've experienced many "firsts" and realize how important it is to take a moment and reflect on other "firsts" that matter to us. Former Cumberland County Commissioner Virginia Thompson Oliver was the first female commissioner elected in the county and our Association's first female president. Past President Oliver was appointed commissioner in 1978 following the untimely death of her husband, Larry Thompson, who was serving as a commissioner and with aspirations to run for governor. The county's attorney at the time encouraged her to complete her husband's term, and she did. Past President Oliver went on to run for three more successful terms, and served as chair of her board. She became the first female to serve as our Association's president in 1985-86. She is known to have been instrumental in the development of Cape Fear Valley Medical Center, the county library and the merger of the city and county school systems in Cumberland County. She clearly made a positive mark on her community and without a doubt, our Association. We are truly honored to induct Past President Oliver into the NCACC Hall of Fame. She is unable to be with us tonight and shared the following remarks to be read.

3. CONSENT AGENDA

A. Approval of August 2, 2021 Regular Meeting Minutes

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

B. Approval to Pay Prior Year Invoice

APPROVAL TO PAY PRIOR YEAR INVOICE 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 until the third week in August). After that cutoff date has passed, a department may still receive a vendor invoice that is payable for services that were rendered, or goods were received in the prior fiscal year. When that occurs, approval by the Board of Commissioners is required prior to payment. The following departmental invoices meet those criteria:

Department: Finance
Vendor: City of Fayetteville
Invoice Date: June 10, 2020
Total Amount: \$40,817.92

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay a prior year invoice for the Finance Department totaling \$40,817.92.

C. Approval of Proclamation Extending Congratulations to Major Freddy L. Johnson, Jr.

BACKGROUND

Wesley Fountain, Fayetteville State University Associate Vice Chancellor for Community Relations and Economic Partnership, requested a proclamation for FSU alumnus Major Freddy L. Johnson, Jr. who was appointed by Gov. Roy Cooper as Commander of the State Highway Patrol in April 2021.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, Major Freddy L. Johnson, Jr. is a native of Fayetteville and a 1994 graduate of Fayetteville State University with a Bachelor of Science Degree in Criminal Justice; and

WHEREAS, Major Freddy L. Johnson, Jr., a 1996 honor graduate of the Highway Patrol Basic School, began his career as a trooper in Lumberton and served much of his career in Robeson and Cumberland counties; and

WHEREAS, Major Freddy L. Johnson, Jr. was promoted to the rank of Captain in 2013 and Major in 2017; and

WHEREAS, Major Freddy L. Johnson, Jr. is a 2019 graduate of the FBI National Academy Program and a 2006 graduate of the Administrative Officer Management Program at N. C. State University; and

WHEREAS, Major Freddy L. Johnson, Jr. has been the recipient of numerous awards including the N. C. Governor Highway Safety Program's 2016 State Law Enforcement Partner of the Year award, the N. C. Association of Fire Chief's 2016 Fire Officer of the Year award, the Department of Public Safety's Badge of Excellence Award for Outstanding Performance for Planning Oversight of Patrol Operations during the U. S. Open Golf Championship in Pinehurst, and the Highway Patrol's Samaritan Award; and

WHEREAS, Major Freddy L. Johnson, Jr. was appointed as Commander of the N. C. Highway Patrol by N. C. Governor Roy Cooper in April 2021 and will be honored at a reception hosted by Fayetteville State University Chancellor Darrell T. Allison on August 18, 2021.

NOW THEREFORE, We, the Cumberland County Board of Commissioners, do hereby extend congratulations to Major Freddy L. Johnson, Jr. for his appointment as Commander of the N. C. Highway Patrol and salute his distinguished record of service.

Approved this 16th day of August 2021.

- D. Approval of Acceptance of Offer to Purchase Surplus Property Located at 2028 Corrinna Street, Fayetteville

BACKGROUND

The County acquired the real property with PIN 0438-28-2788, being Lot 58, Broadwell Subdivision, Section 2, Plat Book 40, Page 71, located at 2028 Corrinna Street, Fayetteville, at a tax foreclosure sale in 2006 for a purchase price of \$9,479.30. The property is zoned SF6 with a tax value of \$15,000.00. Based on the GIS Mapping and the tax records, there is no structure on the lot. Michael Nepstad on behalf of MDN Rentals, LLC, made an offer to purchase the property for \$9,479.30. 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 Michael Nepstad on behalf of MDN Rentals, LLC. 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 INTENT 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 0438-28-2788, being Lot 58, Broadwell Subdivision, Section 2, Plat Book 40, Page 71, located at 2028 Corrinna Street, Fayetteville, is not needed for governmental purposes and intends to accept an offer to purchase the property for \$9,479.30. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

- E. Approval of Budget Ordinance Amendments for the August 16, 2021 Board of Commissioners' Agenda

BACKGROUND

Juvenile Crime Prevention Fund 245

- 1) Juvenile Crime Prevention – Budget Ordinance Amendment B220225 to recognize funding in the amount of \$145,000 from the Division of Juvenile Justice

The Board is requested to approve Budget Ordinance Amendment B220255 in the amount of \$145,000 to increase funding in the Intensive Services Network program. This funding will be used to provide treatment services to at-risk youth who have been referred by the court system.

Please note this amendment requires no additional county funds.

REGARDING THE FOLLOWING ITEMS #2-#11 PLEASE NOTE:

Each fiscal year County departments may have projects that have been approved and initiated but were not complete by the fiscal year end (6/30/21) or items ordered that had not been received by fiscal year end. These projects or items were approved in the Fiscal Year 2021 budget; however, the money was not spent by June 30, 2021.

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

The following amendments seek to bring those funds forward from FY 2021 into the current fiscal year, allowing departments to complete and pay for these projects and items. These revisions are not using 'new' funds but are recognizing the use of FY21 funds in FY22.

General Fund 101

- 2) Tax Administration – Budget Ordinance Amendment B220735 to re-appropriate FY21 funds in the amount of \$164,675

The Board is requested to approve Budget Ordinance Amendment B220735 to re-appropriate FY21 funds in the total amount of \$164,675. \$30,375 represents remaining funds dedicated to a required billing software update and \$134,300 represents tax audits which began in FY21 and were still in process at the end of the fiscal year.

- 3) Sheriff's Office – Budget Ordinance Amendment B220838 to re-appropriate FY21 funds in the amount of \$222,320

The Board is requested to approve Budget Ordinance Amendment B220838 to re-appropriate FY21 funds in the total amount of \$222,320. \$56,320 represents the Bullet Recovery System and \$166,000 represents the DR Imager projects that were budgeted but not completed in FY21.

- 4) Central Maintenance and Public Utilities – Budget Ordinance Amendment B220049 to re-appropriate FY21 funds in the amount of \$19,729

The Board is requested to approve Budget Ordinance Amendment B220049 to re-appropriate FY21 funds in the total amount of \$19,729. \$1,159 represents the second phase of the fleet utilization study and \$18,570 represents consulting services for the Engineering Department that were budgeted but not completed in FY21.

- 5) Emergency Services – Budget Ordinance Amendment B220802 to re-appropriate FY21 funds in the amount of \$35,495

The Board is requested to approve Budget Ordinance Amendment B220802 to re-appropriate FY21 funds in the amount of \$35,495. This amount represents remaining FY21 funds from the Emergency Management Preparedness Grant (EMPG). These funds will be used to provide training, supplies, and equipment for the Emergency Management Division.

- 6) Emergency Services Grants – Budget Ordinance Amendment B220803 to re-appropriate FY21 funds in the amount of \$15,000

The Board is requested to approve Budget Ordinance Amendment B220803 to re-appropriate FY21 funds in the amount of \$15,000. This amount represents remaining 2020 Homeland Security Grant Program (HSGP) funds. These funds were originally recognized at the October 5, 2020 Board of Commissioners meeting.

- 7) Register of Deeds Automation – Budget Ordinance Amendment B220038 to re-appropriate FY21 funds in the amount \$100,000

The Board is requested to approve Budget Ordinance Amendment B220038 to re-appropriate FY21 funds in the amount \$100,000. This amount represents funds dedicated to the Register of Deeds Vault Door Renovation Project. This project was originally approved at the June 21, 2021 Board of Commissioners meeting.

Capital Investment Fund 107

- 8) Capital Investment Fund – Budget Ordinance Amendment B220801 to re-appropriate FY21 funds in the amount of \$487,000

The Board is requested to approve Budget Ordinance Amendment B220801 to re-appropriate FY21 funds in the amount of \$487,000. This amount represents remaining funds dedicated to the Bi-Directional Amplifier Project.

This project was approved at the April 19, 2021 Board of Commissioners meeting.

9) Capital Investment Fund – Budget Ordinance Amendment B220853 to re-appropriate FY21 funds in the amount of \$612,824

The Board is requested to approve Budget Ordinance Amendment B220853 to re-appropriate FY21 funds in the amount of \$612,824. These funds are needed to complete various maintenance and repair projects that were budgeted but not completed in FY21.

Crown Center Fund 600

10) Crown Center – Budget Ordinance Amendment B220051 to re-appropriate FY21 funds in the amount of \$13,988

The Board is requested to approve Budget Ordinance Amendment B220051 to re-appropriate FY21 funds in the amount of \$13,988. These funds are needed to complete the Crown Swale Repair Design project that was budgeted but not completed in FY21.

NORCRESS Water and Sewer Fund 605

11) NORCRESS Water and Sewer Fund – Budget Ordinance Amendment B220052 to re-appropriate FY21 funds in the amount of \$1,800

The Board is requested to approve Budget Ordinance B220052 to re-appropriate FY21 funds in the amount of \$1,800. These funds are needed to complete the NORCRESS Utility Easement Appraisal Project budgeted but not completed in FY21.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

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

1. Local Workforce Development Area Annual Plan - Program Year 2021

BACKGROUND

The Workforce Innovation and Opportunity Act (WIOA) requires each Workforce Development Board (WDB) to develop and submit, in partnership with the Chief Local Elected Official (i.e., Chairman of the Local Board of County Commissioners), a comprehensive four-year plan. Four-Year Plans were submitted in 2020. Annually, each WDB is to provide updates to the Comprehensive Four-Year Plan (PY 2020). The WIOA Program Year (PY) 2021 Plan provides current plan year updates which will be effective July 1, 2021 - June 30, 2022 and will include all current local policies. The Comprehensive Four-Year Plan (PY 2020) must be maintained and updated as appropriate. The PY 2021 Plan includes information related to the WDB Overview, NCWorks Career Center, WIOA Title I Programs (Adult and Dislocated Worker Services and Youth Services), and Local Innovations. The complete document and attachments are available for review at:

<https://www.cumberlandcountync.gov/departments/career-center-group/career-center/local-area-plan>

According to WDB staff, the plan was posted as required for thirty (30) days for public review and comment. The Cumberland County Workforce Development Board Chair has signed and is submitting the attached signatory page for execution by the Chairman to the Board of Commissioners.

RECOMMENDATION / PROPOSED ACTION

At the August 10, 2021 Agenda Session meeting the Board of Commissioners approved placing

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

the proposed actions on the consent agenda at the August 16, 2021 Board of Commissioners meeting: Approve the PY 2021 Cumberland County Local Workforce Development Area Plan and with the Chairman to the Board of Commissioners signature executing the document.

2. Removal of Appendix B from the Cumberland County Code of Ordinances

BACKGROUND

As part of the 160D updates to the County's Zoning and Subdivision ordinances earlier this year, it was discovered that the County Code of Ordinances contains an Appendix B, which houses the County's subdivision standards, and that it is redundant and duplicative of an already existing stand-alone subdivision ordinance.

The Planning and Inspections Department has been utilizing the stand-alone subdivision ordinance for years and has the ordinance posted on the department's website. As such, staff believes there is no need for the duplicate language to be in the Code of Ordinances and that it should be removed. There is a precedent for this as an identical action was taken to remove Appendix A in the Code of Ordinances that previously held the County's zoning regulations. The redundant zoning regulations were removed with a note inserted to direct the public to the Planning and Inspections Department. Staff is requesting an identical action be taken for the subdivision regulations. Being that there is no change in the ordinance language, there is no public hearing required for this action.

Similar to the action taken to amend the zoning ordinance, and if deemed appropriate by the Board of Commissioners, staff recommends the following sentence be inserted to replace the current language in the Appendix B location:

"At the county's instruction the subdivision ordinance is not set out herein but is on file and available for inspection in the office of the planning department of the county."

RECOMMENDATION / PROPOSED ACTION

This item was presented at the August 10, 2021 Board of Commissioners' Agenda Session Meeting and approved to move forward to the August 16, 2021 Regular Meeting as a Consent Agenda Item. Staff recommends the Board of County Commissioners remove Appendix B from the County Code of Ordinances.

3. Removal of Late Fees and Fines for Library Materials (Books and Audiovisual) at the Cumberland County Public Library

BACKGROUND

The Cumberland County Public Library is requesting approval from the Cumberland County Board of Commissioners to become a late-fee free library system for materials checked out by customers. This would entail clearing historical late fees and no longer charging late fees in the future.

Over the past year, the Cumberland County Public Library has paused the collection of late fees on overdue library books and audiovisual materials to help ease the financial burden on community members during COVID-19 while also maintaining access to resources and services. The materials have been placed on automatic renewal. Our budget proposal for FY22 was conservative in the projection of collected late-fees, due to COVID-19.

This pause on late fee collection has allowed for the strategic evaluation of the practice of collecting late fees on materials through the lens of the County's goals of promoting diversity, equity and inclusion; recruitment and retention; as well as fiscal responsibility and return on investment through staff time and resources. Through the information detailed in the memo below, you will see that charging late fees on materials is: a barrier to access that does not promote diversity, equity and inclusion of all community members; a practice that is no longer industry standard, which could negatively affect our reputation within the state; and is not a fiscally responsible return on investment.

Finally, research within the industry from other library systems that have gone late-fee free, have experienced a huge return of customers, have broken down barriers to access – increasing the

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

members of the community they serve, have experienced a huge amount of good will within the community, while ensuring that their practices meet industry standards and are fiscally responsible.

Cumberland County Public Library currently has 146,051 borrowers with library cards. Of those borrowers, 49,738 of them are inactive and have late fees and fines over the threshold that would prevent them from checking out materials. The threshold is \$10. Customers who owe more than \$10 cannot access library resources.

Approximately 34% of our library card holders are inactive, with fees that prohibit them from using our resources. We cannot assume that all of these card holders went inactive because of large fines, but it is reasonable to assume that a number of these customers are no longer users because they accrued late fees and were unable to pay them back, therefore being prohibited from using our resources.

Of those inactive borrowers 9,567 are juvenile borrowers who have accrued fees and fines such that their amount due prohibits access to materials. Our experience has shown that frequently, late fees on juvenile accounts are due to no fault of the child, so they are being prohibited access to essential materials for learning and development through no fault or action of their own.

Furthermore, revenue from late fees has been on a decreasing trend for the last five years, even prior to COVID. The revenue has been as following:

- FY – 17: \$44,111.02
- FY – 18: \$ 45, 614.37
- FY – 19: \$43,290.40
- FY – 20: \$26, 803.58
- FY – 21 (late fees paused due to COVID-19): \$1,468.72

Cumberland County Public Library currently charges \$.20 per day per item with a maximum of \$5 per item charged. With the threshold of \$10 being that which prohibits customers – two overdue books could stop a customer from being able to access materials.

It should be noted that this request to go late-fee free is not for the fines to pay for materials that have been lost. Cumberland County Public Library would continue to collect fines for materials that have been lost when possible.

Late fees are a percentage of the revenue the library is bringing in:

Total revenue:

- FY – 17 \$44,111.02 – late fees (25% of revenue)
- Total of all fees collected in FY17 \$169,845.93
- FY – 18 \$45,614.37 – late fees (32% of revenue)
- Total of all fees collected in FY18 \$142,504.10
- FY – 19 \$43,290.40 – late fees (30%)
- Total of all fees collected in FY19 \$140,584.53
- FY – 20 \$26,803.58 – late fees (we shut down on 3/20/21)
- Total of all fees collected in FY20 \$96,552.68 (27%)
- FY – 21 \$1468.72 – late fees were collected even though we were fee free.

Our current predicted revenue from all fines and fees is \$112,000. Taking an estimate based on historical numbers – we can estimate that 30% or \$33,600 of that amount would be late-fees. Furthermore, CCPL has a total of \$2,926,592.70 in fines and fees logged in the system from accounts with balances due of over \$10. However, of that amount, \$1,012,013.00 are on record from pre-2014, and due to a migration of check out systems – we do not have all of the contact information for the customers. In other words, they are long overdue late fees and fines that we do not anticipate collecting.

Diversity, Equity, and Inclusion

Of the 49,738 cardholders who have prohibitive fees/fines on their account, at least 27,876 customers live within zip codes in Cumberland County where the median household income and

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

home value are all below the state average, and the number of persons earning below the poverty level is above the state average.

A comparison of two zip codes in Cumberland County demonstrates how the late fee structure of libraries targets historically underserved communities, as well as communities with high levels of poverty.

For example, in the zip code 28305, there are a total of 495 customers who are unable to use the library due to fees over \$10. Census and demographic data shows that the area for 28305 has median home values higher than the state average and median household incomes higher than the state average. The data shows that 43.6% of the residents of 28305 have a bachelor's degree or higher, and of those 19.6% have a graduate or professional degree. Demographic data shows that the area for 28305 is 66.2% White, 25.6% Black or African American, 4.1% Hispanic or Latino, 2% 2 or more races, 1.3% Asian, .5% Indigenous, and .1% Other. Also, 14.2% of the residents in that community receive incomes lower than the poverty level, only slightly higher than the state average of 13.6%. [1]

Comparing these statistics with the zip code with the largest number of customers who are blocked due to fees clearly highlights the inequity of this practice. There are 5,438 customers in the 28314 area who are blocked from utilizing library resources due to fines and fees. In this area, 28.4% of residents have a bachelor's degree, and 8.4% of those have a graduate or professional degree. The median home value and the median household income are below the state average. The demographic data for this area further highlights how the late fee structure is inequitable to historically underserved communities. The zip code of 28314 is 43.7% Black or African American, 34.8% White, 12.6% Hispanic or Latino, 3.9% 2 or more races, 3.4% Asian, .7% Indigenous, .6% Native Hawaiian, and .3% Other. [2]

While 28314 has the most blocked customers, the data it presents is similar to many of the other zip codes: historically underserved communities and communities with higher rates of poverty and lower education rates in our community are inequitably and unfairly affected by the library's late fee structure.

The breakdown for ZIP Codes is:

28301: 2,623
28303: 2,673
28304: 3,694
28305: 495
28306: 3,645
28307: 352
28311: 3,820
28312: 1,692
28314: 5,438
28348: 2,745
28390: 1,546
28391: 409

This percentage demonstrates that our fee structure unfairly targets our most underserved residents – community members who we are specifically trying to serve and reach. In order to support our strategic efforts of diversity, equity, and inclusion, – we have to take down barriers to access for our most underserved community members. Elimination of late fees – both historical and future – would expand equitable access for all customers.

Data from libraries across the county have increasingly demonstrated that charging late fines create unnecessarily economic barriers to access for customers, to the extent that the American Library Association passed a resolution in 2019 urging libraries to remove fines to expand access. [3]

Industry Standard and Recruitment and Retention

Elimination of historical and future late fees has quickly become the industry standard within the library profession in the United States, and more locally, within the State of North Carolina. Within NC, the following systems have implemented versions of the late fee and/or fine free system:

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Totally fine free:

Alamance County (starting July 2021)
Buncombe (starting July 2021)
Cabarrus County
Carteret County
Catawba County (starting July 2021)
Mecklenburg County / Charlotte (starting July 2021)
Durham County
Gaston County
Guilford County / Greensboro Henderson (starting July 2021)
Iredell County (starting July 2021)
Madison County
Wake County
Robeson County
Chapel Hill
Farmville
Gibsonville
Mooresville

Mostly fine free:

Northwest Regional (DVD fines only)

- Alleghany County
- Stokes County
- Surry County
- Yadkin County

Forsyth County (DVD fines only)

Partially fine free:

- Granville (fine free for children's materials)
- Transylvania (fine free for children's materials, Student Access, bookmobile)
- Student Access libraries (fine free student accounts)

Appalachian Regional:

Ashe, Watauga, and Wilkes Counties

- BHM Regional: Beaufort, Hyde, and Martin Counties
- Bladen County
- Braswell Memorial: Nash County
- Caswell County
- Cleveland County
- Davie County
- Davidson County
- Fontana Regional: Jackson, Macon, and Swain Counties
- Franklin County
- Harnett County
- Kings Mountain Municipal Library
- Lee County
- McDowell County
- Neuse Regional: Greene, Jones, and Lenoir Counties
- Perry Memorial Library
- Polk County
- Public Library of Johnston County and Smithfield
- Rockingham County
- Scotland County
- Wayne County

As this list demonstrates – it is the standard for libraries in NC to be either fully fine free or partially fine free. As one of the largest systems in the State, we want to ensure that we are up to date in providing access to our communities, and ensuring we are leaders on the forefront of serving our customers. Leadership in serving customers will allow us to recruit and retain top tier talent.

Return on Investment:

Based on staff reporting, it takes a minimum of 15-30 minutes to assist customers when there is a late fee involved. This process includes explaining the fee, taking them through payment options, and then assisting with payment options. If the late fee becomes an item with the customer that is escalated towards management, then it can take additional time. Escalations have even made it to the Deputy Director and Director.

Using the base salary amount of \$15/hour – the return on investment for the amount of money collected from late fees does not justify the amount of staff time used on continuing the practice. By the time we have spent staff time to explain the fees, gather information with escalated issues, assisted customers who may have been angry – we have spent way more in staff time and lost productivity than the fine collection would provide in revenue to the county.

Ceasing the use of the collection agency to recover lost materials and instead utilizing staff to contact customers with large outstanding fines for materials considered lost would be a cost saving measure, to help off balance the small amount of revenue taken in by late fees.

Currently, the library pays the collection agency – Unique Management Solutions - \$9.00 per call to a customer. While we do only pay for the fee when the materials have been brought back to the library, there are more effective ways to do this. While the service has helped us gain back some lost materials, the cost structure is not fiscally responsible or effective, when we are able to do the contacting internally through innovating marketing.

We have paid the agency the following over the past years:

- 2016 – \$35,719.45
- 2017 - \$36,202.75
- 2018 - \$30,054.10
- 2019 - \$27,011.10
- 2020 - \$19,663.15
- 2021 - \$0- were not collecting due to COV-19.
- 2022 – Our current bill this FY is \$4,000

When comparing these sums to the amount of revenue collected from late fees, and from a budget perspective, we can eliminate the use of this service to get as close to a zero balanced budget as possible.

Data has also demonstrated that late fees do not bring materials back faster. Libraries without late fees tend to have materials returned at the same rate, or faster, as those with late fees.

Furthermore, data and analysis from other libraries across the country demonstrate that going late fee free increases use of the library, as well as good will in the community. A few examples include:

- Saint Paul (MN) Public Library: upon going fine free: 85,416 items checked out on formerly blocked cards in the first fine free year, 1.8% increase in circulation after a multi-year decrease, and 1.9 days increase on wait/hold lists for items[2]
- Public Libraries in Salt Lake City (UT) saw a 10% increase in check outs and borrowers after dropping late fees. The library's late-return rate dropped from 9% to 4% after late fees were eliminated.[3]
- The High Plains Library District (Co) saw an 8% increase in juvenile borrowers, and the libraries in San Rafael (CA) saw an increase of 40% youth borrowers after eliminating late fees.[4]

[1] <https://www.ala.org>

[2] <https://sppl.org/fine-free/>

[3] <https://library-nd.libguides.com/publib/finefree>

[4] Ibid.

RECOMMENDATION / PROPOSED ACTION

This item was presented to the Board at the August 10, 2021 Agenda Session and was approved to move forward to the Consent Agenda at the August 16, 2021 Board of Commissioners meeting.

4. Fayetteville Area Convention & Visitors Bureau, Inc. (FACVB) Bylaw Change

BACKGROUND

Per The FACVB Bylaws, amendments made to Article IV and VI, may be amended by affirmative vote of 2/3 of the Board of Directors and approval of the Board of Commissioners.

The FACVB Board added the 2 sentences below to Article IV Section 3:

Meetings of the Board or any committee thereof may be conducted by conference telephone, videoconference or other electronic communication that support visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) the text of pending motions, and showing the results of votes. These electronic meetings of Board shall be subject to all rules adopted by the board, to govern them, which may include any reasonable limitations on, and requirements for Board Members' participation.

The FACVB Board also amended Article III, Section 2 and 3 to create a board that is more inclusive of tourism businesses and partners in Cumberland County.

At the August 10, 2021 Agenda Session Meeting, the Board of Commissioners recommended making the Airborne Special Operations Museum (ASOM) position an Ex-Officio Non-Voting Member and make the voting seat vacated by ASOM an At-Large position to be appointed by the Board of Commissioners.

RECOMMENDATION / PROPOSED ACTION

The Board of Commissioners approved placing the proposed actions on the consent agenda of the August 16, 2021, Board of Commissioners meeting:

- Approve the Bylaw amendments as requested by the FACVB Board.
- Approve the additional recommendation by the Board of Commissioners to make the Airborne Special Operations Museum (ASOM) position an Ex-Officio Non-Voting Member and make the voting seat vacated by ASOM an At-Large Position to be appointed by the Board of Commissioners.

5. Amendment to the Personnel Ordinance, Section 501 (f)

BACKGROUND

In an effort to be prepared for audits of expenditures from American Rescue Plan Act funds, staff have been carefully reviewing County policy in comparison to federal procurement standards, all within the code of federal regulations, specifically § 2 CFR 200.317-327. It was found that the Code of Ethics, Conflict of Interest section of the current Personnel Ordinance could be amended to include more restrictive language as reflected in § 2 CFR 200.218(c)(1).

The draft amendment to the Personnel Ordinance, Code of Ethics section is attached with changes shown in red font.

RECOMMENDATION / PROPOSED ACTION

At the August 10, 2021 Agenda Session Meeting, there was unanimous consensus of the Board of Commissioners to place the action below as a Consent Agenda item as follows:

- Approve an amendment to the Personnel Ordinance, Code of Ethics section.

Sec. 501. Code of ethics.

(a) Declaration of policy. It is the policy of the county that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public has

confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county employees is adopted.

(b) This code has four purposes as follows:

- (1) To encourage high ethical standards in official conduct by county employees;
- (2) To establish guidelines for ethical standards of conduct for all county employees by setting forth those acts or actions that are incompatible with the best interests of the county;
- (3) To require that county employees disclose private financial or other interests in matters affecting the county; and
- (4) To serve as a basis for disciplining and/or punishing those employees who refuse to abide by its terms.

(c) Definitions. As used in this code of ethics, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (1) Business shall mean a corporation, partnership, sole proprietorship, firm, organization or other legal entity carrying on business;
- (2) Confidential information shall mean information which is not available to the general public and which is obtained only by reason of an employee's position.
- (3) County shall mean the County of Cumberland.
- (4) Employee shall mean all officials, officers, members and employees, whether elected or appointed and whether paid or unpaid, of the government of the county and of all of its agencies. Employees shall include former employee if the violation occurred during county employment.
- (5) Financial interest shall mean any interest which shall yield, directly or indirectly, any monetary or other material benefit to a county employee. The term, financial interest, shall not include the employee's salary or other compensation received pursuant to county employment. The fact that an employee owned ten percent or less of the stock of a corporation or has a ten percent or less ownership in any business entity or is an employee of said business entity does not create a financial interest.
- (6) Official act shall mean an official decision, vote, approval, disapproval or other action which involves the use of decision-making authority.
- (7) Personal interest shall mean any interest arising from blood or marriage relationships or from employment or business whether or not any financial interest is involved. A blood or marriage relationship for the purpose of this section shall mean wife, husband, mother, father, brother, sister, daughter, son, grandmother and grandfather, grandson and granddaughter, aunts and uncles. Included are the step, half, in-law, in loco parentis relationships and persons living within the same household.
- (8) Political activity shall mean any act aimed at supporting or opposing the election of any candidate for public office or supporting or opposing a particular political party.

(d) Standards of Conduct. Employees must in all instances maintain their conduct at the highest standards. Official conduct guided by high ethical standards gives the public confidence in the integrity of its government and assures the public that government is responsible to the people. The following standards of conduct are goals which public employees should strive to attain so as to avoid even the appearance of impropriety in the conduct of the public's business:

- (1) Employees have an obligation to act morally and honestly in discharging their responsibilities;
 - (2) Employees shall conduct themselves with propriety, discharge their duties impartially and fairly and make continuing efforts toward attaining and maintaining high standards of conduct;
 - (3) Employees shall not improperly use, directly or indirectly, their county positions to secure any financial interest or personal benefit for themselves or others;
 - (4) Employees shall not use nor attempt to use their positions to improperly influence other employees in the performance of their official duties; and
 - (5) While in the conduct of their official duties employees shall not nor request other employees to grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or to make available to the public at large.
- (e) Use of County Resources.
- (1) No employee shall use or permit the use of county employees or county-owned material, property, funds, or other resources of any kind for the private gain, personal benefit, or political advantage of any person, except where such use is made available to the public at large. Nothing herein shall be interpreted or construed to limit the use of county-owned facilities for public gatherings in accordance with established facilities use policies.
 - (2) County-owned vehicles shall not be used for the personal business of any employee. No county automobile shall be used by a county employee going to or from home, except when such use is for the benefit of the county and such use has been authorized by the department head, county manager or sheriff.
- (f) Conflict of Interest.
- (1) No employee shall engage in any employment or business which conflicts with the proper discharge of his or her official duties.
 - (2) No employee shall have a financial interest, directly or indirectly, in any transaction with any county agency as to which the employee has the power to take or influence official action. No employee shall take or influence official action in any transaction with any county agency that would confer a benefit based on a personal interest where such benefit is not made available to the public at large.
 - (3) If an employee has any direct or indirect financial interest in the outcome of any matter coming before the agency or department of which he or she is a member or by which he or she is employed, such employee shall disclose on the record of the agency or department and to his superior or other appropriate authority the existence of such financial interest. An employee having such an interest shall not engage in deliberations concerning the matter, shall disqualify himself from acting on the matter and shall not communicate about such matter with any person who will participate in the action to be taken on such matter. However, the excusal from voting by members of the board of county commissioners shall be governed exclusively by G.S. § 153A-44.
 - (4) No employee shall represent or appear on behalf of any individual or entity, either personally or through an associate or partner, against the interests of the county or any of its agencies in any action or proceeding in which the county or any of its agencies is a party, unless the action or proceeding is sufficiently remote from his official duties, so that no actual conflict of interest exists.

(5) Nothing herein shall be interpreted or construed to prohibit any employee from exercising his or her legal rights as to his or her own personal interests in processing a claim against, making a request to the county or any of its agencies or in defending a claim made against him or her by the county or any of its agencies, or to prohibit an employee from testifying as a witness in any administrative or judicial proceeding.

(6) No employee may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The employees may neither solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. (Reference § 2 CFR 200.318(c)(1).

(g) Confidential Information.

(1) No employee shall, without legal authority, disclose confidential information gained as a result of his or her employment or position with the county.

(2) No employee shall use confidential information gained as a result of his or her employment or position with the county to advance his or her own financial or personal interest or the financial or personal interests of any other person.

(3) Nothing in this subsection shall be construed as prohibiting the disclosure of information required by law to be disclosed.

(h) Gifts, Gratuities, and Favors. No employee shall knowingly solicit or accept a gift, whether in the form of money, things, favor, loan or promise, or gratuity, from any person or entity which, to the employee's knowledge, is interested directly or indirectly, in any manner whatsoever, in a transaction with the county or any of its departments or agencies as to which the employee has the power to take or influence official action. This section is not intended to prevent the gift and/or receipt of the following:

(1) Honorariums in an amount not to exceed \$25.00 or expenses to include meals, travel and lodging for participating in meetings, seminars, conferences, grand openings, or anniversary celebrations of businesses, or other similar activities where the official or employee is either a speaker, participant or invited in his or her official capacity;

(2) Nominal advertising items or souvenirs of \$25.00 or less in value, or meals furnished at banquets;

(3) Customary gifts or favors received by any employee from friends, relatives or other employees where it is clear that it is the relationship of the donor which is the motivating factor for the gift or favor;

(5) Gifts, favors, discounts, and gratuities offered by commercial enterprises to members of the general public; and

(6) Political contributions by elected county officials.

(i) False Statements Prohibited.

(1) No employee shall willfully make any false statement, or in any manner commit any fraud, conceal any wrongdoing or fail to answer fully and truthfully questions about wrongdoing connected with the business of the county or connected with the work-related conduct of any county employee.

(2) No employee shall willfully make any false statement, certificate, mark, report or rating with the intent to obtain public funds or other public benefit for himself or herself or

anyone else to which the employee or such other person is not by law entitled or otherwise authorized.

(3) No person seeking appointment to, or promotion in, the service of the county, shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for, on account of or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion; provided, however, that this provision shall not apply to payments made to duly licensed employment agencies or educational institution.

(j) Nepotism Prohibited. No relative of a of a county employee, by blood or marriage, may be employed in any position with the county in which the employee may be able to supervise directly or control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed. Relative for the purposes of this section shall mean wife, husband, mother, father, brother, sister, daughter, son, grandmother and grandfather, grandson and granddaughter, aunts and uncles. Included are the step, half, in-law, in loco parentis relationships and persons living within the same household.

(k) Outside Employment. Except for county elected officials or appointees, no employee shall engage in outside employment without prior approval of the employee's department head. Approval will be granted except where the employment has a probability of creating a conflict with the performance of the county's business or creating a division of loyalty, or where the performance of the outside duties would most likely impair the employee's ability to perform his or her county duties.

(l) Political Activity.

(1) Generally. Every employee of the county has a civic responsibility to support good government by every available means and in every appropriate manner except where in conflict with the law. County employees may join or affiliate with civic organizations of a political nature, may attend political meetings, may serve as officers of civic or political organizations, and may advocate and support principles or policies of civic or political organizations in accordance with the Constitution and laws of the United States and North Carolina.

(2) Prohibitions. No employee of the county shall:

(a) Engage in any political activity while on duty, unless serving as an elected county official;

(b) Place any pressure, direct or indirect, on any employee to support any candidate or party, contribute to, solicit for, or act as custodian of funds for political purposes;

(c) Offer any county position, promotion, job related benefit, remuneration or other advantage to any person as a reward for political activity or support;

(d) Take adverse action against any employee based on that employee's engaging in or refusing to engage in permitted political activity; or

(e) Permit or require any county employee to engage in political activity while the employee is on duty.

(3) Candidates running for public office; etc. Engaging in political activity while on duty shall not include the casual greeting or encounter by employees with persons running for public office. Candidates for public office visiting public offices shall be received and treated with respect. For the purpose of this section, employees who are on authorized breaks or on lunch periods shall not be deemed to be on county time.

(m) Violations. Any violation of this section shall be deemed improper conduct and may subject an employee to disciplinary action, dismissal, or removal, as appropriate. Additionally, a violation of subsection (e), use of county resources, or subsection (i), false statements prohibited, is declared a misdemeanor and may be punished as provided by law. The board of county commissioners, upon notice and hearing, may declare void and rescind any contract, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit certificate, ruling, decision, performance of any service, or transfer or delivery of anything which the board determines was awarded, granted, paid, furnished, or otherwise performed in violation of this article.

This ordinance **amendment** shall become effective at the time it is adopted and shall repeal and supersede the Cumberland County Personnel Ordinance in effect at the time this ordinance is adopted.

Adopted by the Board of Commissioners in regular meeting **August 16, 2021**.

6. Radio Tower Lease Agreement with the North Carolina Department of Agriculture and Consumer Services - Division of Forest Services

BACKGROUND

The NC Department of Agriculture and Consumer Services - Division of Forest Services wishes to renew an existing agreement for radio antennae space on the tower located atop 109 Bradford Avenue, a County-owned facility. The continued use of the space on the tower provides more effective and efficient services to the citizens of Cumberland County without any negative impact to existing operations. This serves as a benefit to the County and surrounding region and more specifically the fire departments of Cumberland County who may need to communicate directly with local NC Forest Service staff.

The terms of the agreement are proposed as follows without major changes:

- Three-year term commencing August 1, 2021 and ending July 31, 2024 (last negotiated in 2018) Rent of \$10.00 (TEN DOLLARS) for the entire three-year term
- Lessor provides and maintains existing antennae, connections, and headend building while Lessee provides and maintains its headend equipment
- Lessor provides utilities and environmentally controlled headend building (utilities are singly metered for entire facility and therefore cannot be split out)
- Lessee is self-insured

Attached is a copy of the proposed agreement. The intent to lease does not have to be advertised since the proposed agreement is between government entities.

RECOMMENDATION / PROPOSED ACTION

At the August 10, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed actions on the consent agenda at the August 16, 2021 Board of Commissioner Meeting: Approve the Radio Tower Lease Agreement with the North Carolina Department of Agriculture and Consumer Services-Division of Forest Services and authorize the County Manager to execute the agreement.

7. Proposed Amendments to Rules 6 and 26 of the Board's Rules of Procedure

BACKGROUND

The Board's Rules of Procedure are to be republished to incorporate amendments. Incident to that republication, the Clerk and the County Attorney recommend the additional amendments to Rules 6 and 26 set out in red font in the attachment. These amendments are consistent with the Board's practice of denying the presentation of video on those occasions when speakers have requested to do so during the public comment period. At the August 10, 2021, Agenda Session, the Board voted to place this item on the Agenda for August 16, 2021, as a consent item.

RECOMMENDATION / PROPOSED ACTION

County Attorney and Clerk to the Board recommend approval of the amendments to Rules 6 and 26.

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Proposed Amendments to Rules 6 and 26 of the Board's Rules of Procedure

Rule 6 Regular Meetings:

- First Monday of the Month at 9:00 AM
- Second Thursday of the Month at 1:00 PM as an Agenda Session
- Third Monday of the Month at 6:45 PM

If a regular meeting falls on a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified by the Board of Commissioners. (Note: The Board of Commissioners adopts its regular meeting schedule at its first regular meeting in December. The schedule is posted on the county website).

A public comment period shall be the first item of business at the 3rd Monday of the month meeting. Comments shall be limited to three minutes per person. **No electronic media presentations will be permitted in the public comment period.** and the Board of Commissioners may adopt other rules for the conduct of the public comment period.

Meetings of the Board are held in Room 118, Cumberland County Courthouse, 117 Dick Street, Fayetteville, NC, unless otherwise specified by the Board of Commissioners.

The Board may change or cancel the time or place of a particular regular meeting by motion adopted and posted on the courthouse bulletin board on the lower level of the courthouse and on the front door of the courthouse at least seven days before the change takes place. Notice of change must be sent to the County Sunshine List.

Rule 26 Public Hearings:

For all public hearings except those held for rezoning cases and those conducted as quasi-judicial proceedings, the time limit for each speaker shall be three minutes. For public hearings on rezoning cases, the total time limit shall be ten minutes for the proponent side and ten minutes for the opponent side, broken up into three minutes for each speaker or five minutes for a speaker representing a group. If there is only one speaker, he/she may use five minutes. For any public hearing conducted as a quasi-judicial proceeding, those persons for whom the Board has found standing to speak shall be allowed sufficient time to present relevant and material testimony. Persons desiring to speak at a public hearing must register with the Clerk prior to commencement of the meeting.

The Board of Commissioners reserves the right to limit the length of public hearings to avoid redundant or repetitive comment or testimony. **No electronic media presentations will be permitted in public hearings except those presented by County staff or a consultant hired by the County.**

8. Request for Additional Animal Services Veterinary Medical Staff Positions and Associated Budget Ordinance Amendment # B220285

BACKGROUND

On August 10, 2021, Assistant County Manager Tracy Jackson presented an update to the Board of Commissioners concerning needs associated with Cumberland County Animal Services Veterinary Medical Program. As a result of the presentation, the Board moved to add up to four (4) Veterinary Health Care Technicians and a part-time Veterinarian to the FY22 Budget. The Total cost for these positions is illustrated below. Staff was directed to move this forward to the Consent Agenda of the August 16, 2021 Board of Commissioners' meeting.

- (4) Veterinary Healthcare Technicians at \$49,7789 each for a total of \$199,116
- Part-time Veterinarian at \$25,025

The total funding being sought is \$224,141 and requested as an appropriated from Fund Balance.

RECOMMENDATION / PROPOSED ACTION

Actions requested are:

1. Approve the addition of up to four (4) Veterinary Health Care Technicians and a part-time Veterinarian as an amendment to the FY22 Budget

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

2. Approve the associated Budget Ordinance Amendment # B220285
9. Resolution Supporting the Allocation of Funding for the Cape Fear Regional Theater in the 2021 N. C. State Budget

BACKGROUND

Following a presentation provided by Ella Wrenn, Managing Director of the Cape Fear Regional Theater, and Mary Kate Burke, Cape Fear Regional Theater Artistic Director, at the August 10, 2021, Agenda Session meeting, action was taken to prepare a resolution to support the inclusion of State funds for the benefit of the Cape Fear Regional Theater in the 2021 State Budget and request the members of the local delegation representing Cumberland County in the General Assembly to support this funding in the final adoption of the State Budget.

RECOMMENDATION / PROPOSED ACTION

Approve the Resolution Supporting the Allocation of Funding for the Cape Fear Regional Theater in the 2021 N. C. State Budget and direct staff to forward to the members of the local delegation representing Cumberland County.

RESOLUTION OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS SUPPORTING THE ALLOCATION OF FUNDING FOR THE CAPE FEAR REGIONAL THEATER IN THE 2021 NORTH CAROLINA STATE BUDGET

Whereas, the Cape Fear Regional Theater has been a keystone in providing art and culture within Cumberland County and the surrounding region for decades; and

Whereas, the Cape Fear Regional Theater provides the first opportunity, and often, the only opportunity, for elementary school students in the Cape Fear region to see a professionally produced play in a theater setting; and

Whereas, the on-going and long-standing commitment of the Cape Fear Regional Theater to provide art and culture in the Cape Fear Region is an important resource to enhance the quality of life in the region and to promote the region for economic growth and development; and

Whereas, the Cape Fear Regional Theater has undertaken a capital improvement plan to update and improve its theater facilities to maintain its ability to provide this art and culture to the region.

Now therefore be it resolved that the Cumberland County Board of Commissioners commends the inclusion of State funds for the benefit of the Cape Fear Regional Theater in the 2021 State Budget and requests the members of the local delegation representing Cumberland County in the General Assembly to support this funding in the final adoption of the State Budget.

Adopted this 16th day of August, 2021.

MOTION: Commissioner Lancaster moved to approve consent agenda Item 3.A- Item 3.F.9.
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

4. PUBLIC HEARINGS

Uncontested Rezoning Cases

- A. Case P21-26: Rezoning of 14.04+/- acres from A1 Agricultural District to R20 Residential District or a more restrictive zoning district, located at 2120 Smith Road, submitted by Northwood Investments LLC (owner).

Mr. 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

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

zonings, and surrounding land uses and zonings as well as soil conditions. Mr. Howard stated the site will be served by septic and well. Mr. Howard stated the request is consistent with the South-Central Land Use Plan and Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-26.

The clerk to the board stated there were no speakers for Case P21-26.

Chairman Evans closed the public hearing for Case P21-26.

Commissioner Adams inquired about utilities and asked if the subject property was in the Gray's Creek area. Mr. Howard responded there are no utilities for water and sewer and it is located in the Gray's Creek area.

MOTION: Commissioner Lancaster moved in Case P21-26 to approve the rezoning request from A1 Agricultural District to R20 Residential District and find the request consistent with the South-Central Land Use Plan designation of Low Density Residential. 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 Keefe

VOTE: PASSED (4-3) (Commissioners Lancaster, Keefe, Council and Boose voted in favor; Commissioners Evans, Adams and Stewart voted in opposition.)

B. Case P21-27: Rezoning of 2.36+/- acres from R10 to C1(P) Planned Local Business District or to a more restrictive zoning district, located at 6234 Camden Road, submitted by Sharon A. Edwards (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. Mr. Howard stated the site is served by well and septic and water is available from PWC utilities. Mr. Howard stated the site is in the Hope Mills MIA and the request is consistent with the policies in the Southwest Cumberland Land Use Plan for mixed use development; the applicants indicated his intent is to put in a vinyl flooring business. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-27

The clerk to the board stated there were no speakers for Case P21-27

Chairman Evans closed the public hearing for Case P21-27

Commissioner Keefe stated the surrounding land uses are residential and asked whether there was a structure on the C1(P) property. Mr. Howard stated there is a structure on the C1(P) property, but he does not know whether the plan for the subject property is to operate out of the existing structure that had been used for a business before or tear it down and rebuild. Commissioner Keefe asked about water and sewer utilities. Mr. Howard responded water is available from PWC but there is no sewer.

MOTION: Commissioner Keefe moved in Case P21-27 to deny the rezoning request from R10 Residential District to C(1)P Planned Local Business District, and find the request not consistent with the Southwest Cumberland Land Use Plan. Denial of the request is reasonable and in the public interest because of the surrounding residential areas.

SECOND: Commissioner Stewart

VOTE: PASSED (5-2) (Commissioners Keefe, Evans, Adams, Council and Stewart voted in favor; Commissioners Lancaster and Boose voted in opposition.)

C. Case P21-31 **This Case Has Been Deferred to September 20, 2021**

D. Case P21-36: Rezoning of 12.36+/- acres from A1 Agricultural District to C(P) Planned Commercial District or to a more restrictive zoning district, located east of Cedar Creek Road, north of Tabor Church Road, submitted by Bartlett Engineering & Surveying, PC (agent) and Cathy Tatum Vinson (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. Mr. Howard stated the site is served by septic and well and the request for C(P) is consistent with the Southeastern Cumberland Land Use Plan which designates the subject site to be within a commercial node. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-36.

The clerk to the board called the following speaker for Case P21-36.

Steve Oliverio – Mr. Oliverio appeared as a proponent with Bartlett Engineering and Surveying, PC representing the owner and the developer. Mr. Oliverio stated the Planning Board recommended approval, and he is available to answer any questions.

Commissioner Boose referenced the creek and asked how it was affected by storms. Mr. Oliverio stated all normal steps involved with the engineering process will be followed, NCDOT regulations will followed, DEQ regulations will be followed for any stormwater treatment as well as any from Cumberland County and the City of Fayetteville. Mr. Howard stated there are no identified flood zones or wetlands on the property but there are State rules that necessitate a certain distance from the creek as part of the development process.

Chairman Evans closed the public hearing for Case P21-36.

Commissioner Adams stated Lockes Creek is just below the subject property and the neighborhood around Lockes Creek floods, and the City of Fayetteville is about ready to place a moratorium on building in the flood prone area around Lockes Creek. Commissioner Adams stated when the subject property is uphill and upstream and he is told a survey and study have not been done, he is opposed to the rezoning.

Commissioner Boose asked whether the case could be deferred because that information is crucial. Mr. Howard stated should the Board defer the case, more information could be brought to the next meeting. Commissioner Boose stated if the request is denied, the applicant cannot apply for a year. Mr. Howard confirmed that to be true. Commissioner Boose asked how long it would take to get the study and the maps. Mr. Oliverio stated the studies for stormwater and other things are part of the site plan and construction plan process, but to raise the amount of water flow that goes into a creek that will affect downstream properties is not allowed. Mr. Oliverio stated the planning and development process is not at the point to be able to provide that information but local, state and federal regulations require the treatment of stormwater before it leaves the site.

Commissioner Keefe inquired about the purpose for the request for C(P). Mr. Oliverio stated at this time the developer is looking at a small 8-10 thousand SF retail store. Commissioner Keefe stated once zoned C(P), any of the allowable uses under that zoning classification are possible and the board may/may not be aware of the impact. Commissioner Keefe stated it is a bit of a risk for him to approve something commercial without knowing what it is going to be when it is surrounded by agriculture and residential.

Commissioner Adams stated there will be parking lots and hard surfaces if rezoned for commercial uses and the consequence will be water running downhill or downstream.

Mr. Oliverio stated if discussion is leading towards rejection of the rezoning request, he would prefer to pull the request and meet with staff to come up with additional information.

MOTION: Commissioner Adams moved to defer Case P21-36.
SECOND: Commissioner Boose
VOTE: UNANIMOUS (7-0)

E. Case P21-40: Rezoning of 0.92+/- acres from A1 Agricultural District to R40 Residential District or to a more restrictive zoning district, located at 5177 Stewart Road, submitted by Terry Faircloth (surveyor) on behalf of Michael Longhany (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. Mr. Howard stated the site is served by septic and there is PWC water. Mr. Howard stated the proposal is for a cut out portion of the parent tract so another house can be built on the back portion of the property. Mr. Howard stated the request complied with the Wade Study Area Land Use Plan and Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-40.

The clerk to the board stated there were no speakers for Case P21-40.

Chairman Evans closed the public hearing for Case P21-40.

MOTION: Commissioner Lancaster moved in Case P21-40 to approve the rezoning request from A1 Agricultural District to R40 Residential District and find the request consistent with the Wade Study Area Land Use Plan, which calls for One Acre Residential at this location. The request is reasonable and in the public interest because the R40 Residential District would allow dwelling types and a density that are compatible and in harmony with the surrounding land use activities and zoning.
SECOND: Commissioner Boose
VOTE: UNANIMOUS (7-0)

F. Case P21-44: Rezoning of 2.80+/- acres from M(P) Planned Industrial District to C(P) Planned Commercial District or to a more restrictive zoning district, located at 2965 Gillespie Street; Carla Emmons and Stephen Wheeler (agent) on behalf of Emmons & Wheeler, LLC (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. Mr. Howard stated PWC water is available along the road frontage of Gillespie Street, PWC sewer is available along the back of property, and it is the applicant's responsibility to coordinate with PWC to determine if these utilities can properly serve the development. Mr. Howard stated the request is consistent with the South-Central Land Use Plan and Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-44.

The clerk to the board stated there were no speakers for Case P21-44.

Chairman Evans closed the public hearing for Case P21-44.

As it relates to planning in general, Commissioner Adams asked whether there were requirements to plant trees or allow for green spaces to help with appearances. Mr. Howard there are street tree

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

planning requirements for certain developments and there have been discussions at the staff level about strengthening appearances through the use of overlays in certain areas of the county. Mr. Howard stated requirements for trees and greenspace can be broached in a much larger planning discussion.

MOTION: Commissioner Keefe moved in Case P21-44 to approve the rezoning request from M(P) Planned Industrial District to C(P) Planned Commercial District and find the request consistent with the South-Central Cumberland Land Use Plan, which calls for Heavy Commercial at this location. The request is reasonable and in the public interest because commercial development is compatible with the surrounding area and uses.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0)

Contested Rezoning Cases

G. Case P21-28: Rezoning of 48+/- acres from A1 Agricultural District to R30 Residential District/CZ Conditional Zoning for up to 52 lot zero lot subdivision or to a more restrictive zoning district, located South of Bainbridge Road between Mary McCall Road and John Nunnery Road, submitted by Molcie Farms LLC (owner).

Mr. Howard stated this case was heard by the Planning Board in May and since that time there has been dialogue with the applicant and the developer, and feedback from the public. Mr. Howard stated he will provide the presentation shown to the Planning Board but since the Planning Board, there have been conditions offered by the applicant he would like the Board of Commissioners to consider. Mr. Howard referenced documents placed at the dais for the Board's review. Commissioner Adams asked why the conditions were being presented to the Board of Commissioners because they should go back to the Planning Board so the Planning Board can make a recommendation to the Board of Commissioners. Commissioner Adams stated that makes more sense to him as opposed to bringing the modifications directly to the Board of Commissioners. Mr. Howard stated the Planning Board denied the request, there was no mention of modifications at that time and the applicant took feedback from the Planning Board and wanted to take the modifications to the Board of Commissioners. Mr. Howard stated the Board of Commissioners can refer the case back to the Planning Board should it so choose. Commissioner Adams stated he is only one commissioner but if the process is going to include modifications after a case is heard by the Planning Board, then the recommendation of the Planning Board does not mean much.

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. Mr. Howard stated there are no public sewer or water available, but the soils are generally adequate for septic. Mr. Howard stated the request is consistent with the adopted Stedman Area Land Use Plan. Mr. Howard stated 52 lots are contemplated in the subdivision. Mr. Howard stated Planning and Inspections staff recommended approval and the Planning Board recommended denial due to concerns over traffic and density. Mr. Howard stated the applicant has submitted a new plan with the same layout as the prior plan but has taken out the zero-lot lines, so the request meets all R30 setback requirements and density requirements for minimum lot size. Mr. Howard stated the number of lots has been reduced from 52 to 43 and a 30' continuous perimeter buffer around the whole subdivision has been added to fit in with the rural area. Mr. Howard stated for areas without existing trees, trees will be planted according to the street tree planning rate. Mr. Howard stated unless the Board of Commissioners is seeking deferment back to the Planning Board, the Board would have to agree to accept the plan and the conditions before entering into discussion about whether to accept or deny the request.

Chairman Evans opened the public hearing for Case P21-28.

The clerk to the board called the following speakers for Case P21-28:

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Martin Jones – Mr. Jones appeared in favor as the Mayor of the Town of Stedman and stated this represents an opportunity for the town to grow in the right direction. Mr. Jones stated there are two other subdivisions currently being considered inside the Town of Stedman, the next big movement as far as expansion. Mr. Jones stated the addition of buffers and reduction in lot sizes will satisfy members of the community.

Thomas Neville – Mr. Neville appeared in favor and stated the two speakers following him on the sign-up sheet conceded their time to him as the lawyer. Mr. Neville stated his client is Molcie Farms LLC which is composed of the Bunce families, who live in the area, intend to remain there for a long time, own a lot of farmland in the area and intend to continue farming with the exception of this tract which is not suitable for farming. Mr. Neville stated the changes that did not go before the Planning Board were agreed to by the Bunces and were made with the neighborhood in mind to preserve the rural character. Mr. Neville stated the Molcie Farms property is 48-acres. Mr. Neville reviewed the surrounding land uses and zonings and stated he does not think it is correct to characterize the area as primarily agricultural because there is a mixture of A1 and developed subdivisions. Mr. Neville stated the request rezoning is consistent with existing subdivisions.

Mr. Neville's time to speak expired and the following motion was offered.

MOTION: Commissioner Lancaster moved to give Mr. Neville the time allotted to Ms. Epler and Mr. Bunce.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (7-0)

Rick Moorefield, County Attorney, advised Mr. Neville he had an additional six minutes during which to speak.

Mr. Neville stated the 52 lots have been reduced to 43 lots, there are two entrances to the subdivision, larger lots have been concentrated towards road frontage to preserve more of the rural character and by doing a subdivision with lots concentrated in this manner reduces driveway permits to only about seven. Mr. Neville referenced a handout he provided relative to the future land use plan. Mr. Neville stated the future land use plan contains classifications for suburban residential and rural residential; therefore, R30 is consistent with the land use plan. Mr. Neville stated if a proposal is consistent with the land use plan and it is denied, reasons for the denial must be stated. Mr. Neville referenced a crosswalk table also provided as a handout. Mr. Neville stated all internal lots have access to internal streets and there is a buffer around the entire property. Mr. Neville stated the average daily traffic on any of the roads is extremely minimal, there is no real issue with traffic and the two entrances into the subdivision will assist with traffic. Mr. Neville stated the land use plan specifically states with R30 that both well and septic are suitable and his understanding is that to bring water/sewer to the area costs upwards of a million dollars which is inconceivable for the development of this area. Mr. Neville stated the land use plan lists threats and weaknesses, and safety is listed as one of the strengths. Mr. Neville stated the proposal has a lot of community support and the reality is the area is growing and what is needed is smart managed growth. Mr. Neville stated the site plan and this proposal represents smart growth.

Lori Epler – Ms. Epler conceded her time to Mr. Neville.

Rhett Bunce – Mr. Bunce conceded his time to Mr. Neville.

Richard Freeman – Mr. Freeman appeared in opposition and stated he lives on John Nunnery Road, the speed limit is 55 MPH and there is a lot of traffic; roads and

schools are of great concern. Mr. Freeman stated this site is not within the Town of Stedman so he does not know how it will help the Town's growth. Mr. Freeman stated there is no water and no sewer, A1 is acceptable in the land use plan and because he was part of the group that met to work on the land use plan, he knows one of the efforts was to retain the rural setting. Mr. Freeman stated his uncle, who served as Mayor of the Town of Stedman for 38 years, worked hard to maintain the rural character and sense of belonging for the community. Mr. Freeman referenced nearby Wheatland and Tinderwood subdivisions and stated they all have one-acre lots. Mr. Freeman stated the area currently has a problem with septic tanks and there is GenX in the water.

Belivia White Autry – Ms. Autry appeared in opposition and stated there are a lot of things to take into consideration with growth and development, one of which is safety due to GenX in the water. Ms. Autry stated she does not see how this development will help the Town of Stedman grow because it is not in the town limits. Ms. Autry stated she is concerned about her community and how the schools will be affected by the influx of development.

John Wayne Mosley – Mr. Mosley appeared in opposition and stated he served a term as a commissioner for the Town of Stedman. Mr. Mosley stated his concern with this development is related to law enforcement because there are issues with getting officers to respond not just to the Stedman area but the whole east side of the river. Mr. Mosely stated he is also concerned about county code enforcement as it relates to the maintenance of houses, mowing of yards, pets and wrecked vehicles in driveways. Mr. Mosley stated there is a lot of opposition to this development and the Planning Board voted 6 to 1 in opposition to the rezoning.

Laura Gilmore Smith – Ms. Smith appeared in opposition and stated infrastructure such as schools and fire departments are not set up to accomodate this new subdivision and it is incorrect to state there is very little traffic. Ms. Smith stated there is also GenX in the water and without public water and sewer, she does not understand how this development can be approved.

Chairman Evans closed the public hearing for Case P21-28.

Commissioner Keefe asked how the rezoning request ended up being R30. Mr. Howard shared an analysis that was conducted: Case #93-24 approved as a preliminary subdivision plant for Wheatland Subdivision included individual wells, individual septic tanks, 75 lots, gross density of 1.33 dwelling unit per acre, minimum lot size of 128'x185'-23,680 SF (0.54ac), average lot size 29,000SF and 56 acres; and Case P97-80 with 56.06 acres and a request for R20, Planning Board denied R20 and recommended R30, Board of Commissioners approved R30, and potential was for 65 lots and although it was never built on, it is entitled to be built on as R30 standard. In response to a question from Commissioner Keefe, Mr. Howard stated R30 has an average lot size of 30,000 SF so some lots in the Wheatland Subdivision do not meet the current minimum but were subject to ordinance regulations at that time.

Commissioner Keefe stated there has been a lot of concern voiced about GenX and asked will that be addressed on the deeds. Mr. Rhett Bunce stated the correction for GenX will be handled through the restrictive covenants so that a reverse osmosis filter will be put on every well installed. Mr. Bunce spoke to other things specified in the restrictive covenants.

Commissioner Boose referenced the previous cases/other areas zoned R30 and asked whether zoning this property R30 would affect the zoning for future cases in this area. Mr. Howard stated that decision would be up to the Board of Commissioners and since the land use plan is a policy guidance document, it would be at the Board's discretion whether to support the document.

Commissioner Adams stated the Board of Commissioners does not approve residential subdivision site plans because it is it is not within their purview. Mr. Moorefield confirmed the statement was correct and clarified for the record that the only thing in the packet was an application for a zero-lot line, up to 52-lots, subdivision. Mr. Moorefield stated he has heard what has been stated but

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

he does not know what was presented because it is not in the packet. Mr. Moorefield stated even with an R30 district allowed, he thinks the issue the Planning Board had was zero-lot lines with most lots being substantially under 30,000 SF. Mr. Moorefield stated the map presented by Mr. Howard is also not in the packet. Mr. Howard stated the map being presented was not in the packet and the Board would have to accept the map. Commissioner Adams restated the Board does not have authority to approve site plans because that is part of the planning stage and the only thing before the Board is a zero-lot line development. Mr. Moorefield stated the application is for zero-lot line. Mr. Rawls stated a site plan must accompany conditional zoning so when the Board approves every conditional zoning request in theory, there is a site plan that's included in the packet as part of the approval or denial. Mr. Moorefield stated the application is submitted for a conditional zoning because the request is for a zero-lot line up to 52 lots. Commissioner Adams stated the changes were at his seat on the dais and not in the packet that puts everyone on notice as to what is to be voted on. Commissioner Adams stated that is the reason he brought it up before the public hearing when the case was being presented.

Commissioner Adams stated even though the Board of Commissioners is talking about countywide water and sewer, to say the million-dollar cost to bring water/sewer to this area is inconceivable means that the cost is going to fall on the county. Commissioner Adams stated he does not think the Board of Commissioners should be left to retrofit the subdivision after the developer sells the homes and receives all the income. Commissioner Adams stated he has consistently had a problem with wells being suitable in areas where the water has tested positive for GenX.

Commissioner Keefe asked whether the Board could approve the request with conditions. Mr. Moorefield responded in the affirmative, but stated the Board needs to know the conditions. Commissioner Keefe stated the conditions could be stated in the motion. Commissioner Keefe asked whether zero-lot line was the only way the applicant could apply. Mr. Howard responded the applicant could apply for R30 and with his request right now; the application was for R30, zero-lot-line, conditional zoning. Commissioner Keefe stated as it relates to stormwater runoff and stormwater drainage, it seems to him that this development is going to set a higher standard than any of the four existing developments and the potential development to the south. Commissioner Keefe asked whether the Board's motion could be to approve with conditions going line by line per the paperwork the Board received. Mr. Moorefield stated based on what has been said, a motion for straight R30 conditional zoning with the 30' buffer around the perimeter being the condition would cover what the applicant is offering because every lot has to be 30,000 SF.

Commissioner Council asked whether the Planning Board saw any of documents placed at the dais for the Board of Commissioners' review. Mr. Howard responded in the negative and stated staff felt because it was pretty much the same site plan and the conditions had been submitted in writing, it could come to the Board of Commissioners. Mr. Howard stated the Board of Commissioners can always refer it back to the Planning Board. Commissioner Council stated she would ask that it go back to the Planning Board since the Board of Commissioners is looking at new material.

Commissioner Boose asked whether any of the documents placed at the dais were binding if the Board of Commissioners approves the proposed plan. Mr. Moorefield stated the motion will have to be clear and very specific. Mr. Moorefield stated if the Board of Commissioners consideration is to maintain the R30 with 30,000 SF lots, a straight R30 will do that, but to get the additional 30' perimeter buffer the applicant offered would require a conditional zoning. Mr. Moorefield stated he does not know what other conditions were placed at the dais since they were not in the packet, but the Board could add any further conditions if the applicant consented. Commissioner Boose asked whether 0.69ac plus the 30' buffer and removing a zero-lot line complied with R30. Mr. Moorefield responded it would comply with straight R30 because 30,000 SF is about 0.69ac. Commissioner Boose asked whether the 0.69ac included the 30' buffer.

Mr. Howard stated there appears to be a lot of questions so if the Board of Commissioners wants to defer the case back to the Planning Board, that may be the best consideration. Commissioner Boose stated he thinks the Board of Commissioners has tried to do what it could to navigate this case, but if the 30' buffer is taken away from the 0.69ac, the lots would be less than 30,000 SF.

MOTION: Commissioner Boose moved in Case P21-28 to deny the rezoning request from A1 Agricultural District to R30 Residential District/Conditional Zoning District as

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

presented that would allow up to 52 lots Zero Lot Line Subdivision, and find the request is not consistent with the Stedman Area Land Use Plan and that the request and the conditional use subdivision plan submitted for this site are not compatible with the rural character of the area. This rezoning approval is not reasonable and not in the public interest because the district requested, and the subdivision plan are not in harmony with surrounding zoning and land uses.

SECOND: Commissioner Adams

DISCUSSION: Mr. Moorefield stated he did not understand the earlier question posed by Commissioner Boose about the 30' reduction by the perimeter buffer, but the property owners would still own that portion as a part of their lot although it would be restricted as a buffer with vegetation as specified. Commissioner Keefe stated it appears to him that this developer has done what everyone on the Board has asked at one time or another and these people are farmers who live in the community and have stated the soil is not good for farming. Commissioner Keefe stated this developer is setting a standard for a development at R30 that is better than any of the previous developments that have been approved. Commissioner Keefe stated he understands the issues that have been expressed but going to traditional R30 with the buffer takes care of many of the issues. Commissioner Keefe stated if the land cannot be farmed then the only thing that can be done is to develop it and R30 in the ordinance allows for wells and septic. Commissioner Keefe stated he will support this at a traditional R30 if this motion fails. Mr. Moorefield clarified to support the request as stated by Commissioner Keefe, it would have to be a traditional R30 conditional zoning. Commissioner Keefe concurred and stated the Board is taking away someone's ability to use their land. Chairman Evans stated the Board of Commissioners are currently dealing with GenX and it has been stated that there is GenX in this particular community. Chairman Evans stated he does not understand why the Board would approve a residential use with GenX present. Chairman Evans stated he would not want to wish that on anyone.

Commissioner Council left the room prior to the vote without being excused.

VOTE: PASSED (6-1) (Commissioners Lancaster, Evans, Boose, Adams and Stewart voted in favor; Commissioner Keefe voted in opposition) (Commissioner Council was still out of the room.)

H. Case P21-33 **This Case Has Been Deferred to September 20, 2021**

I. Case P21-34: Rezoning of 19.6+/- acres from A1 Agricultural District to R30 Residential District or to a more restrictive zoning district, located east of Rockhill Road, north of Rocky River Road, submitted by Ben Stout (agent) on behalf of George Tatum (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. Mr. Howard stated water is accessible from the Town of Eastover and the site would have to be served by septic. Mr. Howard stated the request is consistent with the adopted Eastover Area Land Use Plan. Mr. Howard stated Planning staff recommended approval and the Planning Board supported the request with a split vote 5-4.

Chairman Evans opened the public hearing for Case P21-34.

The clerk to the board called the following speakers:

Ben Stout – Mr. Stout appeared in favor and stated he presented the project to the Mayor and Town Manager of Eastover and the Eastover Planning Board representative, and his long-term plan is to voluntarily annex himself into the Town of Eastover so he wanted to make sure he would have their support. Mr.

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Stout stated water is available and the soil was tested and in doing so, it complies with R30 rezoning and will support septic. Mr. Stout stated the Town of Eastover and the Planning Board offered their support; there will be around 23 lots total lots and the average lot will probably be in the range of 30,000 to 30,500 SF.

Mark Harris – Mr. Harris appeared in opposition and stated he lives directly across from the proposed development. Mr. Harris pointed out the location of a ridge, I-95 and the location of his property on the map. Mr. Harris stated his property is located downhill from the subject property and his concern is with the 23 septic tanks, and runoff and stormwater that will drain into a culvert on his land. Mr. Harris stated he is concerned about septic seeping into the four active springs on his property because it runs downhill, and he is downhill from the subject property.

Chairman Evans closed the public hearing for Case P21-34.

Mr. Harris responded to a question posed by Commissioner Adams about the location of the exit off of I-95. In response to questions posed by Commissioner Boose about surrounding property owners and the use of their land, Mr. Harris stated he was concerned that the uphill surrounding property will be developed since the owners were deceased. Commissioner Boose stated three of the lots will be open that are currently in the middle of farms and agriculture that could be zoned residential. Mr. Harris stated his concern is that this case would set a precedent for the use of the surrounding farmland.

MOTION: Commissioner Adams moved in Case P21-34 to deny the rezoning request from A1 Agricultural District to R30 Residential District and find the request not consistent with the Eastover Area Land Use Plan. Denial of the request is reasonable and in the public interest because it is not in character with surrounding land use activities.

SECOND: Commissioner Boose

VOTE: FAILED (3-4) (Commissioners Adams, Boose and Stewart voted in favor; Commissioners Lancaster, Keefe, Council and Evans voted in opposition)

Commissioner Keefe asked whether public septic system was located near the subject property because then Mr. Harris would not have to be concerned with septic runoff. Mr. Howard stated there is no readily identified sewer in the area. Mr. Harris asked whether annexation was an option for Mr. Stout. Mr. Stout stated he could be voluntarily annexed into the Town of Eastover. Commissioner Keefe asked Mr. Stout why he wanted to be annexed. Mr. Stout stated the Town provides public water and it is a good compromise between R20 and R40. Mr. Stout also stated the development would not stand alone in the county, would receive the benefits from being within the Town limits and the Town would receive the revenue.

Commissioner Adams stated should the Board support the rezoning and the applicant changes his plans and decides not to seek voluntary annexation into the Town of Eastover, the rezoning is done. Commissioner Keefe stated if the goal is to be in the Town of Eastover, then perhaps the current owner should petition for annexation. Mr. Stout stated he will not go back on his word and the Board could include that as a condition should it so choose. Commissioner Adams stated annexation cannot be added as a condition because it has to be voluntary.

MOTION: Commissioner Council moved in Case P21-34 to approve the rezoning request from A1 Agricultural District to R30 Residential District and find the request consistent with the Eastover Area Land Use Plan, which calls for Rural Density Residential at this location. The request is reasonable and in the public interest because the R30 Residential District allows dwelling types and a density that promote harmony and character with the surrounding land use activities and zoning.

SECOND: Commissioner Lancaster

DISCUSSION: Commissioner Keefe asked whether a condition could be added related to stormwater runoff. Mr. Howard responded in the negative and stated it is not a conditional request.

VOTE: PASSED (4-3) (Commissioners Lancaster, Keefe, Council and Evans; Commissioners Adams, Boose and Stewart voted in opposition)

5. ITEMS OF BUSINESS

A. Consideration of Action Taken at the August 10, 2021, Agenda Session to Cease Consideration of Consultant Services for Historic Courthouse Renovations

BACKGROUND

At the April 8, 2021 Board of Commissioners' Agenda Session, a representative from the Wooten Company presented two meeting room concepts to the Board. After the presentation, the Board instructed staff to arrange visits with the architect to the Historic Courthouse for the Commissioners and to bring the item back for further discussion at the next Agenda Session. Wooten reached out to the Board and arranged a visit to the Historic Courthouse Courtroom on April 16, 2021, at which time the proposed meeting room concept was explained in greater detail. Two commissioners attended that meeting (Commissioners Keefe and Lancaster).

To recap, the Wooten Company has identified the following costs associated with the proposed renovation: Historic Courthouse Courtroom: \$2,573,000 and the Cumberland County Courthouse - Rooms 118 & 119: \$2,235,500.

A conceptual design would be developed to allow the Commissioners to understand the related building renovations required to support the use of the Courtroom at the Historic Cumberland County Courthouse

- The above cost estimate for the Historic Courthouse does not include:
- Elevator Modernization Costs (proposed in FY22 CIP at \$250,000)
- 2nd floor bathroom renovations and ADA up-fit
- Addition of an Executive Meeting Room
- Technology Infrastructure Improvements

If renovated, this would lead to significant plumbing upgrades, a major difference in the appearance of the Historic Courthouse from one floor to the next due to a major renovation of most of the second floor and displacement of County second floor personnel. To address this issue, the Board of Commissioners then directed that the Staff work in determining the costs associated with renovating the basement through the third floor.

The new expanded scope will include the following:

- Offices for County Commissioners (up to 9)
- County Manager's Office
- Clerk to the Board
- County Attorney's Office
- Public Information Office (PIO)
- Budgeting

Commissioners Room related items added from the above-mentioned previous concept include restoration of the balcony and the seating area under the balcony; accessible restrooms at the new Commissioners' Room level; an Executive Session Room.

Attached to this memo is a proposal from the Wooten Company to complete an additional scope of work, determining the above costs associated with renovations at the Historic Courthouse, in the amount of \$32,875.00 and to be completed in 35 days after approval of the proposal.

This item was presented at the August 10, 2021 Agenda Session. At that meeting Chairman Evans asked that this item and the RFQ for the general government services building be presented and discussed at the same time. After much discussion, a motion was made to cease consideration of consultant services for Historic Courthouse renovations and to approve the RFQ for consultant services for a general government services building. That motion passed with a vote of five to one.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the August 10, 2021 Agenda Session. The Board of Commissioners approved moving this forward as an Item of Business to consider the motion made at that meeting to cease consideration of consultant services for Historic Courthouse renovations and to approve the RFQ for consultant services for a general government services building.

Jermaine Walker, County Engineer, presented the background information and recommendation/proposed action recorded above. Commissioner Boose asked what the ballpark date was for completion of the report. Mr. Walker stated if the Board approved the firm the selection committee determined to be the firm of choice, their estimate is to have the study available to present to the Board in six months.

Commissioner Keefe provided a statement in support of moving forward with renovation of the Historic Courthouse and offered the following motion.

MOTION: Commissioner Keefe moved that funding be allocated from monies received entirely from the American Rescue Plan, that the renovation not exceed \$3M and that the renovation allow for social distancing, pandemic protocols and be in accordance with the American Disabilities Act, and that the \$3M renovation of the Historic Courthouse be for county offices and county commissioner chambers.

SECOND: Commissioner Boose

DISCUSSION: Chairman Evans asked whether ARP funds could be used for renovation of the Historic Courthouse. Mr. Moorefield responded ARP funds can be used as long as there is a component to make the use compatible with pandemic types of environments. Commissioner Adams stated Chairman Evans appointed an ARP Committee that was to present proposals to the full Board and one of the matters discussed was per guidelines from the U. S. Treasury, ARP funds should not be used to supplant funds already designated for projects. Commissioner Adams stated he is not certain whether this falls within that guidance but funds spent outside that guidance will have to be paid back. Mr. Moorefield stated Commissioner Adams is correct as it relates to guidance and ARP funds could not be used for projects that may be within the county's Capital Improvement Plan for or which monies have been allocated before March 3, 2021. Commissioner Adams stated monies have already been spent on the Historic Courthouse. Commissioner Keefe stated the county now has the opportunity to renovate the Historic Courthouse because if it is not done with ARP funds, it will not happen. Chairman Evans requested clarification. Mr. Moorefield stated discussions related to regulations he has been involved in are that if the renovation is something to accommodate or use during a pandemic and to operate government during a pandemic, it would be acceptable. Mr. Moorefield stated to Commissioner Adams' point, if it is something that was planned prior to March 3, 2021, it cannot be considered for ARP funding. Mr. Moorefield stated he is not sure whether it is part of the CIP because if so, that would make it ineligible. Ms. Cannon stated up to this point, no funds have been allocated in the CIP other than for elevator modernization and upfits in some areas. Ms. Cannon stated before March 3, 2021, the county has been spending money for a consultant to come up with numbers and just to upfit the room itself was about \$2.2M but that did not include the ADA upfit, the second floor bathroom renovation, the addition of an executive meeting room space or the technology infrastructure improvements. Ms. Cannon stated the technology alone is about \$1M because there is no technology in the room. Ms. Cannon stated at the June Agenda Session meeting, staff were asked to look into those improvements and also to look at moving the managers, the board of commissioners, the clerks and the attorney's office which encompassed a larger renovation. Chairman Evans asked how these timeframes fit with the ARP funding. Mr. Moorefield asked whether it has ever been listed as a CIP. Ms. Cannon stated the major renovation has not been listed in the CIP. Mr. Walker stated \$250,000 has been programmed for elevator modernization. Mr. Moorefield asked whether

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

any funding, other than the funding for elevator modernization, had been allocated before March 3, 2021. Ms. Cannon stated not to her knowledge. Chairman Evans asked if the motion is supported, is there no possibility of having to pay the funds back. Mr. Moorefield concurred. Commissioner Council stated the county courthouse was built so additional floors could be added, she is not sure the manager, the Public Information Office, the board of commissioners, the clerks and the attorney's office should be set apart in the Historic Courthouse, there are a lot of hidden costs, there is no parking, and she thinks the Board should stick to the original plan for a general government services building. Commissioner Boose asked Commissioner Council whether she would be amenable to including cost estimates in the study for a 6th and 7th floor. Mr. Walker stated should the Board approve the RFQ, it can be written in or included. Chairman Evans asked to have the motion repeated.

RESTATED MOTION: Commissioner Keefe moved to proceed with the renovation of the Historic Courthouse provided that all of the funding be from ARP funds not to exceed \$3M, to make it ADA compatible and with Covid restrictions and social distancing for the public

SECOND TO THE RESTATED MOTION: Commissioner Boose

VOTE ON RESTATED MOTION: PASSED (4-3) (Commissioners Lancaster, Keefe, Evans and Boose voted in favor; Commissioners Council, Adams and Stewart voted in opposition)

Ms. Cannon stated the next step is for Mr. Walker to work with the Wooten Company to determine what can be accomplished within \$3M and that would involve entering into another contract agreement with the Wooten Company. Ms. Cannon stated the county was at \$2.2M without ADA and without the technology infrastructure. Commissioner Keefe stated he still favors going forward with the RFQ for a general government services building space utilization and site analysis study. Commissioner Adams stated he does not understand why that should go forward when considering the motion that passed to renovate the Historic Courthouse because it is throwing money away.

B. Consideration of Request for Qualifications (RFQ) for Consultant Services for a General Government Services Building

BACKGROUND

On May 3, 2021, Cumberland County advertised a Request for Qualifications for a General Government Services Building Space Utilization and Site Analysis study. The Study will examine current usage within the Judge E. Maurice Braswell Cumberland County Courthouse (JEMB Courthouse), the Cumberland County Historic Courthouse, and 109 Bradford to determine the space needs for the departments that are currently housed in these facilities and which departments currently under the direction of the County Manager could be relocated to a future General Government Services Building. Additionally, the study will include conceptual design of the future facility and subsequent reuse and improvements to the three existing facilities. The Study will be used by County Commissioners and County Management to make determinations about the location and usage of the future General Government Services Building, as well as proposed use and improvements to the existing facilities. The final report will be presented to the Board of Commissioners and be utilized to continue the project into the design and construction phases. Additionally, the County may choose to retain the selected firm for performance of the design and construction administration services, should the firm be qualified, and it be in the best interest of the County.

The response period closed on May 28, 2021, with six firms responding. The Engineering and Infrastructure Department created a five-member selection committee to evaluate each response based upon the criteria outlined in the RFQ.

For the six (6) proposals for the RFQ for "General Government Services Building Space Utilization and Site Analysis Study," each evaluator had the same 30 qualifying questions with scoring from 1 to 5. With 5 being the highest and 1 being the lowest. The final ranking is below.

Of a possible 750 points for each proposal (30 questions X 5 points max X 5 evaluators = 750), ranking is as follows:

1. Creech & Associates, 594 total points.
2. Oakley Collier Architects, 528 total points.
3. Boomerang Design, 514 total points.
4. Jenkins Peer Architects, 476 total points.
5. CJMW Architecture, 465 total points.
6. LS3P, 464 total points.

This item was presented at the August 10, 2021 Agenda Session. At that meeting Chairman Evans asked that this item and the consideration of consultant services for Historic Courthouse renovations be presented and discussed at the same time. After much discussion, a motion was made to cease consideration of consultant services for Historic Courthouse renovations and to approve the RFQ for consultant services for a general government services building. That motion passed with a vote of five to one.

RECOMMENDATION / PROPOSED ACTION

At the August 10, 2021, Agenda Session Meeting, the Board of Commissioners approved placing the proposed actions below on the August 16, 2021, Board of Commissioners' Meeting:

1. Accept the selection of Creech and Associates as the preferred choice to conduct the General Services Building Space Utilization and Site Analysis Study
2. Grant permission to enter negotiations for refined scope and final price at which time we will present to the Board for approval.

MOTION: Commissioner Boose moved to approve Item 5.B. as presented.

SECOND: Commissioner Keefe

VOTE: PASSED (4-3) (Commissioners Lancaster, Keefe, Evans and Boose voted in favor; Commissioners Council, Adams and Stewart voted in opposition)

6. NOMINATIONS

A. Mid-Carolina Rural Transportation Advisory Committee (RTAC)

Commissioner Adams stated he has already satisfied the State Ethics requirements to serve on the RTAC, so he will nominate himself, Commissioner Glenn Adams.

B. Joint Appearance Commission (1 Vacancy)

Commissioner Adams stated without a recommendation from the Joint Appearance Commission, he would ask to have the vacancy forwarded to a September meeting.

C. Regional Land Use Advisory Commission (RLUAC) Board of Directors (1 Vacancy)

Commissioner Adams nominated Rawls Howard.

D. Fayetteville Technical Community College Board of Trustees (1 Vacancy)

Commissioner Adams nominated Esther Thompson.

7. APPOINTMENTS

A. Senior Citizens Advisory Commission (1 Vacancy)

MOTION: Commissioner Adams moved to appoint Shamona Ross to the Senior Citizens Advisory Committee.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (7-0)

B. Board of Adjustment (3 Vacancies)

MOTION: Commissioner Adams moved to appoint to the Board of Adjustment Kenneth Turner as an Alternate Member, Robert Davis as a Regular Member and Linda Amos as a Regular Member.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (7-0)

C. Transportation Advisory Board (2 Vacancies)

MOTION: Commissioner Adams moved to appoint to the Transportation Advisory Board Debra Kinney as an At-Large Representative and Randy Hume as an Urban Transit Provider Representative.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (7-0)

D. Joint Appearance Commission (1 Vacancy)

MOTION: Commissioner Adams moved to appoint Kenneth Rogers to the Joint Appearance Commission.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (7-0)

8. CLOSED SESSION:

A. Economic Development Matter(s) Pursuant to NCGS 143.318.11(a)(4)

B. Personnel Matter(s) Pursuant to NCGS 143-318.11(a)(6)

MOTION: Commissioner Council moved to go into closed session for Economic Development Matter(s) pursuant to NCGS 143.318.11(a)(4) and for Personnel Matter(s) pursuant to NCGS 143-318.11(a)(6).

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Lancaster moved to reconvene in open session.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Lancaster moved to adjourn.

SECOND: Chairman Boose

VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 10:00 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board

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 <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

