

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 20, 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
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Jermaine Walker, Engineering and Infrastructure Director
Rawls Howard, Planning and Inspections Director
Dee Taylor, Community Development Director
Hank Graham, FAMPO Director
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk
Press

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Lancaster 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 called the following speakers:

Kathy Greggs – Ms. Greggs did not appear when her name was called.

Alex Mostella – Mr. Mostella offered comments in opposition to mask mandates for school children. Mr. Mostella stated he feels the requirement will not reach its intended goal, and it is more about a question of risk. Mr. Mostella provided statistics in support of his position.

1. APPROVAL OF AGENDA

Amy Cannon, County Manager, stated County Attorney Rick Moorefield asked to provide an update on the status of redistricting before Item 8. Closed Sessions and Chairman Evans asked to pull Item 3.H.1. from the consent agenda for separate discussion and action regarding the funding commitment for the historic Orange Street School project. Commissioner Adams asked to pull Item 3.H.12 American Rescue Plan Funding Recommendations from the consent agenda for separate discussion and action.

MOTION: Commissioner Adams moved to approve the agenda with the changes as requested.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (7-0)

2. PRESENTATIONS

A. Upcoming Transportation and Planning Public Meetings

BACKGROUND

Residents will have the opportunity to participate in two upcoming public meetings related to planning initiatives.

Traffic Congestion Management Process - September 28

The Fayetteville Area Metropolitan Planning Organization is holding virtual public meetings September 28 from 11:30 a.m. to 1 p.m. and from 5:30-7 p.m. to gather feedback from residents concerning traffic congestion in the Fayetteville area. FAMPO is creating a comprehensive, regional multi-modal congestion management study and planning process suitable for implementation by local governments, FAMPO, public transportation providers and N.C. Department of Transportation.

A Zoom link for the virtual meeting will be posted at congestionplan.com and residents are encouraged to complete the online multi-modal management survey at <http://www.congestionplan.com/input/>.

Spring Lake Area Land Use Plan - September 30

Cumberland County Planning and Inspections invites Spring Lake community members to attend a public meeting for an update on the Spring Lake Area Land Use Plan. The meeting is Sept. 30 from 6 to 8 p.m. at the Spring Lake Recreation Center located at 300 Ruth Street.

The land use plan will not change the current zoning or use of property. Participants who attend the public meeting can help planners understand the needs and values of Spring Lake area stakeholders.

For more information about the Spring Lake Land Use Plan visit spring-lake-area-land-use-plan-cumberlandgis.hub.arcgis.com. Residents who cannot attend the meeting in person and want to provide feedback may do so by visiting the website or calling 910-678-7612.

Sally Shutt, Assistant County Manager, introduced the two upcoming public meetings related to planning initiatives. Hank Graham, FAMPO Director, presented the information recorded above about the Traffic Congestion Management Process and FAMPO's public virtual meetings. Annette Massari, Cumberland County Planner, presented the information recorded above about the Spring Lake Area Land Use Plan and reviewed the associated website to promote and increase the public's engagement.

3. CONSENT AGENDA

- A. Approval of August 24, 2021 Special Meeting and September 7, 2021 Regular Meeting Minutes
- B. Approval of Offer to Purchase Surplus Property Located at 7653 Maggie Circle, Fayetteville

BACKGROUND

The County acquired the real property with the PIN 9486-57-0335, being .44 Acre Gillis Land, located at 7653 Maggie Circle, Fayetteville, at a tax foreclosure sale in 2006 for a purchase price of \$4,648.68. The property is zoned AR with a tax value of \$14,955.00. Based on the GIS Mapping and the tax records, there is a structure on the lot. Maline Crupi made an offer to purchase the property for \$4,648.68. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

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

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

Take notice that the Board of Commissioners finds the real property with PIN 9486-57-0335, being .44 Acre Gillis Land, located at 7653 Maggie Circle, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$4,648.68. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

- C. Acceptance of Offer to Purchase Surplus Property Located at 512 Moore Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with the PIN 0437-47-4755, located at 512 Moore Street, Fayetteville, at a tax foreclosure sale in 2011 for a purchase price of \$5,991.83. The property is zoned MR5 with a tax value of \$2,625.00. The City conveyed its interest in the property to the County August 13, 2021, by a quitclaim deed recorded in Book 11217 at Page 553. Based on the GIS Mapping and the tax records, there is no structure on the lot. Michael Washington made an offer to purchase the property for \$5,991.83. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

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

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

Take notice that the Board of Commissioners finds the real property with PIN 0437-47-4755, located at 512 Moore Street, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$5,991.83. 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.

- D. Acceptance of Offer to Purchase Surplus Property Located at 6722 Baldoon Drive, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with the PIN 9497-79-1976, being Lot 106 Loch Lomond, Section 2, Part 1, Plat Book 28, Page 3, located at 6722 Baldoon Drive, Fayetteville, at a tax foreclosure sale in 2009 for a purchase price of \$9,867.94. The property is zoned SF10 with a tax value of \$10,000.00. The City conveyed its interest in the property to the County August 30, 2021, by a quitclaim deed recorded in Book 11233 at Page 773. 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 \$9,867.94. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

The County Attorney recommends the Board consider the offer of 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 PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S. § 160A-269

Take notice that the Board of Commissioners finds the real property with 9497-79-1976, being Lot 106 Loch Lomond, Section 2, Part 1, Plat Book 28, Page 3, located at 6722 Baldoon Drive, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$9,867.94. 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. Acceptance of Offer to Purchase Surplus Property Located at 7005 Ryan Street, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with the PIN 9497-69-3948, being Major Part Lot 14 Loch Lomond, Section 2, Part 1, Plat Book 28, Page 3, located at 7005 Ryan Street, Fayetteville, at a tax foreclosure sale in 2013 for a purchase price of \$11,740.37. The property is zoned SF10 with a tax value of \$9,500.00. The City conveyed its interest in the property to the County August 30, 2021, by a quitclaim deed recorded in Book 11233 at Page 773. 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 \$11,740.37. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

RECOMMENDATION / PROPOSED ACTION

The County Attorney recommends the Board consider the offer of 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 PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S. § 160A-269

Take notice that the Board of Commissioners finds the real property with PIN 9497-69-3948, being Major Part Lot 14 Loch Lomond, Section 2, Part 1, Plat Book 28, Page 3, located at 7005 Ryan Street, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$11,740.37. 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.

- F. Approval of Budget Ordinance Amendments for the September 20, 2021 Board of County Commissioners' Agenda

BACKGROUND

General Fund 101

- 1) Emergency Services Grants – Budget Ordinance Amendment B220230 to recognize a grant from South River Electric Membership Corporation in the amount of \$4,989

The Board is requested to approve Budget Ordinance Amendment B220230 to recognize a grant from South River Electric Membership Corporation's Operation Round Up Program in the amount of \$4,989. These funds will be used to purchase smoke detector alarms as part of the department's Fire Prevention Outreach Program.

Please note this amendment requires no additional county funds.

Capital Investment Fund 107 / Bragg Estates Water and Sewer District Capital Project Fund 416 / Bragg Estates Water and Sewer Operating Fund 609

- 2) Bragg Estates Water and Sewer District Capital Project – Budget Ordinance Amendment B220082 to close the Bragg Estate Water and Sewer District Project

The Board is requested to approve Budget Ordinance Amendment B220082 to close out the Bragg Estates Water and Sewer District capital project in accordance with the Cumberland County Board of Commissioners action taken on March 15, 2021. To close out the capital project fund, all previously capitalized costs and revenues within the project will be transferred to the operating fund and expensed. In order to balance the Bragg Estates Water and Sewer operating fund, a transfer from the Capital Investment Fund is needed.

Please note this amendment requires a fund balance appropriation of \$124,114 from the Capital Investment Fund to be transferred to the Bragg Estates Water and Sewer operating fund.

Juvenile Crime Prevention Fund 245

- 3) Juvenile Crime Prevention – Budget Ordinance Amendment B220019 to align the In-Kind amount approved by the North Carolina Department of Public Safety, Division of Juvenile Justice in the amount of \$199,400

The Board is requested to approve Budget Ordinance Amendment B220019 to align the In-Kind amount approved by the North Carolina Department of Public Safety, Division of Juvenile Justice, in the amount of \$199,400. This is for the program Changing Our Lives Today, Inc.

Please note this amendment requires no additional county funds.

REGARDING THE FOLLOWING ITEMS #4-#9 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.

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

- 4) Sheriff's Office / Detention Center / Jail Health– Budget Ordinance Amendment B220095 to re- appropriate FY21 funds in the amount of \$311,951

The Board is requested to approve Budget Ordinance Amendment B220095 to re-appropriate FY21 funds in the total amount of \$311,951. These are for services and items ordered before June 30, 2021 however the invoices and items were received after July 1, 2021.

Capital Investment Fund 107

- 5) Capital Investment - Vehicles – Budget Ordinance Amendment B220096 to re-appropriate FY21 funds in the amount of \$410,329

The Board is requested to approve Budget Ordinance Amendment B220096 to re-appropriate FY21 funds in the amount of \$410,329. This amount represents remaining funds dedicated for vehicles at the Cumberland County Sheriff Office, Detention Center, and School Law Enforcement. Funding was identified during the FY21 budget year.

- 6) Capital Investment - Technology – Budget Ordinance Amendment B221113 to re-appropriate FY21 funds in the amount of \$747,400

The Board is requested to approve Budget Ordinance Amendment B221113 to re-appropriate FY21 funds in the amount of \$747,400. These funds are needed to complete various technology projects that were budgeted but not completed in FY21.

- 7) Capital Investment Preliminary Capital – Budget Ordinance Amendment B220332 to re-appropriate FY21 funds in the amount of \$500,000

The Board is requested to approve Budget Ordinance Amendment B220332 to re-appropriate FY21 funds in the amount of \$500,000. These funds are needed to continue the General Government Services Building study.

Emergency Rental Assistance Fund 269

- 8) Emergency Rental Assistance – Budget Ordinance Amendment B221112 to re-appropriate FY21 funds in the amount of \$3,049,078

The Board is requested to approve Budget Ordinance Amendment B221112 to re-appropriate FY21 funds in the amount of \$3,049,078. These funds were approved during the Cumberland County Board of Commissioners' meeting on June 21, 2021 and will be used for rental assistance for households affected by the pandemic.

Solid Waste Fund 625

- 9) Solid Waste Administration, Ann Street, Wilkes Road, and Container Sites – Budget Ordinance Amendment B220180 to re-appropriate FY21 funds in the amount of \$850,033

The Board is requested to approve Budget Ordinance Amendment B220180 to re-appropriate FY21 funds in the amount of \$850,033. These funds are for projects and capital items that were not completed or secured in FY21.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

- G. Request for Approval of Submission of FY2022 and FY2023 Rural Operating Assistance Program (ROAP) Applications for the Community Transportation Program Grant Funds

BACKGROUND

Staff requests approval for the submission of the FY2022 and FY2023 ROAP Applications for the Community Transportation Program Grant Funds. The application submission is due no later than October 1, 2021. FY2023 application awards will be announced during the FY23 Fiscal Year with a short turnaround time. This is an annual request that funds the Cumberland County Community Transportation Program which coordinates existing transportation programs operating in Cumberland County using local transportation providers. The funding periods will run from July 1, 2021 to June 30, 2023. Funding will be used to provide trips to work, school, medical, and general errands.

The Community Transportation Program is requesting funding in the following amounts from the NC Department of Transportation (a local match is required for RGP only a 10% local match) as noted below and is typically funded in the local FY Budget):

Project:	Total Amt.:	Local Share:
FY2022 ROAP (actual)	\$348,225	\$8,628 (10% RPG Only)
FY2023 ROAP (estimated)	\$348,225	\$8,628 (10% RPG Only)
Total of Projects:	\$696,450	\$17,256

RECOMMENDATION / PROPOSED ACTION

Staff requests the Board approve the submission of the applications for FY2022 and FY2023 Rural Operating Assistance Program (ROAP) for the Community Transportation Program Grant Funds.

- H. Approval of Cumberland County Board of Commissioners Agenda Session Items
- 1. REMOVED FOR SEPARATE DISCUSSION AND ACTION AS RECORDED BELOW.
- 2. FAMPO Commuter Rail Feasibility Study

BACKGROUND

The Fayetteville-Raleigh Commuter Rail Feasibility Study was jointly supported by the Fayetteville and Capital Area Metropolitan Planning Organizations (MPOs) and local governments inside the study area. The MPOs are an ideal vehicle for undertaking this type of study, closely connected to both the local governments and state department of transportation, which would be the primary stakeholders in any new passenger rail venture. The private operators in these corridors were also invited to participate and did so to the extent that they wished to be involved.

The study’s objectives were to:

- (1) assess suitability of two active rail corridors for new or additional passenger rail services;
- (2) understand costs for reasonably implementing commuter rail service;
- (3) conduct a preliminary estimate of anticipated passenger boardings for scenario-driven train and frequency configurations; and
- (4) if no fatal flaws were discovered in either of the two routes, then determine if a Phase II exercise is viable to advance passenger rail service in one of these two corridors.

While both corridors were determined to have both advantages and disadvantages, the Cumberland County Commission voted unanimously to recommend the Eastern Corridor alignment which comprises the CSX A- Line between Fayetteville and Selma and the NS H-Line between Selma and Raleigh for detailed study.

The costs of a future detailed study would more than likely be shared by CAMPO, FAMPO, NCDOT and possibly other local governments affected by the selected corridor. The estimated cost of a detailed commuter rail study is \$300,000.00 where funding allocations could be made for FY 2022/23 (beginning July 1, 2022).

RECOMMENDATION / PROPOSED ACTION

The Board of Commissioners considered this item at their September 9th, 2021 Regular Agenda Session. The Board approved this item to move forward to the September 20, 2021 Board of Commissioners' Regular Meeting as a Consent Agenda Item for approval. FAMPO staff recommends the Board of Commissioners authorize FAMPO to coordinate with affected local governments, the Capital Area MPO and NCDOT and to obtain FAMPO grant funding approval for the Eastern Commuter Rail Corridor between Fayetteville and Raleigh beginning July 1, 2022. Proposed grant funds would not exceed \$150,000.00 (\$120,000.00 Federal and \$30,000.00 Local Match) for FAMPO.

- 3. Implementation of the Three-Year Homelessness Strategic Plan

BACKGROUND

At the Board of Commissioners’ meeting held on January 19, 2021, the Board approved a Request for Proposal (RFP) to seek a firm to develop a Three-Year Homelessness Plan that would involve the following activities:

Provide a model continuum of homeless services, resources and best practices for a community of similar size and demographics of our community;

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>

Assess the current continuum of homeless services and resources in our community;
Identify needs and gaps in the continuum of homeless services and resources in our community;
and Provide a recommended plan of implementation of identified deficits in homeless services and resources.

The RFP was released on January 19, 2021 and OrgCode Consulting, Inc. was selected to carryout the scope of services outlined in the RFP. OrgCode began performing the work in March 2021 and completed the project by the end of June 2021.

At the August 2, 2021 Board of Commissioners' meeting, Ms. Cindy Crain from OrgCode Consulting, Inc. presented the Homelessness Strategic Plan. The structure of the plan outlines the following:

- four major impact areas to address;
- objectives for addressing the impact areas;
- leading voices to advocate on behalf of the homeless; and
- recommended actions steps to be completed by the leaders and the community.

As part of the Homelessness Strategic Plan, OrgCode recommended the County carryout the next steps which include planning, organizing, and taking action to implement the plan. At the August 2, 2021 meeting County Management recommended engaging OrgCode in assisting the County with the development of an implementation plan based upon the study findings.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Ask OrgCode to develop a scope of work detailing an implementation plan for recommendations from the Homeless Strategic Plan and present the proposed contract at the October Agenda Session meeting.

4. Contract with Good Source Solutions, Inc for Food Products for Detention Center

BACKGROUND

The Cumberland County Sheriff's Office submitted this item to the Board of Commissioners' September 9, 2021 Agenda Session for consideration of renewing the contract with Good Source Solutions, Inc for food products for the Detention Center. Bid 18-8-DC was originally awarded on April 16, 2018, which allowed for an initial term ending June 30, 2020 with annual renewal options until June 30, 2023. Good Source provides "correctional specific" meats and beverages that meet governmental nutritional regulations. The term of the renewal is July 1, 2021 to June 30, 2022 totaling \$175,000.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Approve the contract renewal with Good Source Solutions, Inc for food products at the Detention Center for \$175,000 for the July 1, 2021 through June 30, 2022 term and authorize Board of Commissioners' Chairman to sign the contract.

5. Contract with Mobile Communications America for Emergency Responder Radio Cover Bi-Directional Amplifier Project

BACKGROUND

Mobile Communications America was awarded Bid 21-18-SO by the BOCC on April 19, 2021 for bi- directional amplifiers/repeaters for the Detention Center, Courthouse, and Law Enforcement Center to accommodate the transition to a 925 NC State Viper Radio Network. A contract totaling \$485,577.09 for this project was prepared and presented to the Board of Commissioners at their September 9, 2021 Agenda Session for consideration.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

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>

Approve the contract in the amount of \$485,577.09 to Mobile Communications America and authorize the Board Chairman to sign the contract.

6. Amendment to Baker & Taylor Agreement for Library Books and Audiovisual Materials for FY22

BACKGROUND

The Cumberland County Public Library entered into the Public Library Books and Audiovisual Materials Agreement with Baker & Taylor on July 1, 2020 (historical agreement provided for information). Baker & Taylor was awarded as the primary vendor in a formal bid award for books and audiovisual materials on June 15, 2020. Baker and Taylor was selected as the vendor due to their ability to offer the highest average discount for books and audiovisual materials. Baker and Taylor was also selected because they offered the largest collection of juvenile materials for purchase. In order to continue to purchase a greater amount of materials for the community at a discounted rate, and in order to provide the community with a large selection of juvenile materials, Cumberland County Public Library is seeking permission to renew this contract for FY22 and auto renew for FY23.

The attached amendment to the agreement with Baker and Taylor includes these renewals and also includes a new clause to limit the weight of boxes delivered.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the September 20, 2021 Board of Commissioners' Meeting:

Approve the attached Agreement Amendment with Baker and Taylor for the purchase of library materials to renew for FY 22 and auto renew for FY23.

7. FY 2023 Applications for Community Transportation Program Grant Funds and Resolutions for Public Transit Grant Applications

BACKGROUND

Staff requests approval for submission of grant applications for 5310 and 5307 funds in the amounts listed below. This is an annual request to fund the Cumberland County Community Transportation Program which coordinates existing transportation programs operating in Cumberland County using local transportation providers.

The funding period will run from July 1, 2022 to June 30, 2023. Funding will be used to provide trips to work, school, medical, and general errands. The administrative portion will be used for salaries and fringes of the Transportation Coordinator and the Transportation Assistants, office supplies, driver drug and alcohol testing, travel to meetings and conferences, program marketing for all services provided to County residents, legal advertising and North Carolina Public Transportation Association (NCPTA) membership.

Project:	Total Amt.:	Local Share:
Capital (5310)	250,000	50,000 (20%)
Capital (5307)	89,790	17,958 (20%)
Total Project:	\$339,790	\$67,958

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Approve the submission of the FY 2023 Projects for Community Transportation Program (5310, 5307) grant applications to the NC Department of Transportation after holding a public hearing at the September 20, 2021 Board of Commissioner's Meeting.

8. Amendment to the Flood Damage Prevention Ordinance

BACKGROUND

The County participates in the National Flood Insurance Program (NFIP) to make the County

eligible for disaster assistance from the Federal Emergency Management Agency (FEMA). As a participant, the County is required to adopt a Flood Damage Prevention Ordinance as modeled by the State.

The County's current Flood Damage Prevention Ordinance does not include an automatic adoption clause for updates, therefore any changes to the Flood Insurance Rate Maps (FIRMs) or ordinance requires the FIRMs be readopted, and that the ordinance be re-approved with the changes via public hearing.

The Engineering & Infrastructure Department has been notified by the Eastern Branch NFIP Planner, Eryn Futral, that changes are required to the County's Flood Damage Prevention Ordinance be effective by October 1, 2021. The changes include auto-adoption language and by adopting the language this allows the County to auto-adopt future flood map revisions and flood insurance studies by reference. This would eliminate the requirement to hold public hearings to formally adopt the maps and revise the ordinance.

Included with this memorandum is a mark-up version of the ordinance with the required changes.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Adopt the changes to the County Flood Damage Prevention Ordinance effective October 1, 2021 as required by the State.

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

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

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D~~ of the North Carolina General Statutes, delegated to local governmental units the ~~responsibility authority~~ to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Cumberland County, North Carolina, does ordain as follows:

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of County of Cumberland, North Carolina (unincorporated areas) and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) ~~dated December 18, 2007 for Cumberland County and associated DFIRM panels, including any digital data developed as part of the FIS, and its accompanying Flood Insurance Rate Maps (FIRM), for Cumberland County, North Carolina (unincorporated areas) dated December 18, 2007,~~ which are adopted by reference and declared ~~to be~~ a part of this ordinance, and all revisions thereto.

9. Request to Establish Contingency Funds and Associated Budget Ordinance Amendment # B220060 for the Judge E. Maurice Braswell Courthouse Switchgear Replacement Project

BACKGROUND

On June 10, 2021, the Board of Commissioners approved the Construction Bid Tab and Award for the Judge E. Maurice Braswell Courthouse Switchgear Replacement Project to JL Britt Electric Incorporated in the amount of \$454,000. The item was presented at the June 10, 2021, Board of Commissioners' Agenda Session and was moved forward to the June 21, 2021, Regular Meeting as a Consent Agenda item.

The project is set to start on the eve of the Thanksgiving holiday and conclude no later than the following Saturday, November 27, 2021.

Staff is requesting approval for a \$25,000 contingency with appropriate budget ordinance amendment to handle all change orders for unforeseen site conditions and possible user-requested changes that may arise during the project execution.

The contingency will be funded from cost savings from previously completed projects.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Approve Budget Ordinance Amendment # B220060 for an additional \$25K to establish contingency for Judge E. Maurice Braswell Switchgear Replacement project and authorize the County Manger to approve all change orders not to exceed \$25K.

10. Approval of Signing MOA with the State of North Carolina Relating to the Settlement of Opioid Litigation

BACKGROUND

The county attorney is not the county's attorney in the opioid litigation. The Board engaged the McHugh Fuller Law Group, LLC, of Hattiesburg, MS, with Michael Jay Fuller, Jr., as Lead Counsel and authorized that firm to employ or associate additional counsel. By the contract with McHugh Fuller Law Group, the county consented to the participation of ten additional law firms identified in the contract, including The Richardson Firm, PLLC, and the Law Offices of Antonio F. Gerald, PLLC, in Fayetteville. The county attorney is providing information about the MOA with the State of North Carolina relating to the opioid litigation because the county and the City of Fayetteville both must sign on to the MOA before October 1, 2021, to be eligible for an interest in a share of a 5% incentive fund to be paid out over the term of the settlement.

A national settlement has been reached in the opioid litigation with three distributors and one manufacturer. These were not all the defendants. Those who have declared bankruptcy are still subject to the orders of the bankruptcy court and the national settlement agreement addresses the bankruptcy issue. The national settlement agreement contains 364 pages. It is not attached. A two-page executive summary provided by the national counsel group is attached as Attachment 1. The total settlement nationwide is \$26 billion paid over 18 years and use of the funds is restricted to approved abatement uses which are detailed in the national settlement and the MOA with the State.

The MOA with the State is an agreement among the State, all 100 counties, and 17 cities (including Fayetteville) as to the allocation of the settlement funds coming into North Carolina among the counties and those 17 cities. The MOA contains 15 pages and 24 pages of Exhibits and is attached as Attachment 2, with the signature page attached separately as Attachment 3. Key provisions in the agreement are highlighted for discussion as follows:

On page 6, the key provision is which local jurisdictions get funding and the proportion that is allocated to each. Those are shown in the list at the end of the document on Exhibit pages 22 – 24. Cumberland is allocated 2.637% of the amount allocated to North Carolina. Only six counties are receiving a higher percentage than Cumberland. Those are also highlighted and include Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, and Wake.

On pages 7 and 8, the key provisions are the uses for which the money may be spent, which is set out in detail in Exhibits A and B on Exhibit pages 1-13. Exhibit 7 also has a provision requiring an annual public meeting of the county and all municipalities in the county to receive input on the uses of the funds and encourage collaboration.

On page 9, the key provisions are the description of the budgeting process and requirement for the creation of a coordination group as set out in detail in Exhibit D.

On page 10, the key provisions are the reporting requirements as to the use of the funds.

With the incentive bonus, the agreement allocates 85% of the settlement funds coming into North Carolina to the local governments. Cumberland County has the seventh highest allocation among all the counties. These aspects of the agreement are very good. The only downside to the agreement

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is that it does not explicitly permit settlement funds to be used to pay attorneys' fees other than through a national fee fund that has been carved out to be used for that purpose. There has been a difference of opinion between the NCACC, the Attorney General's Office, and the national counsel group as to how all counsel will be paid. The national counsel group maintains the fee fund is not sufficient to pay all the lawyers. That issue is still not resolved and until August 25, the national counsel group had advised clients not to sign the MOA at this time. The attached letter, identified as Attachment 4, dated August 25, 2021, signed by Paul D. Coates and Russell W. Budd advises that, "The safe harbor is for you to sign the MOA by October 21, 2021."

RECOMMENDATION / PROPOSED ACTION

The county attorney concurs with the advice from two of the law firms representing the county that signing the MOA is the safe harbor approach. To approve the MOA, the Board must adopt the attached Resolution Approving the MOA Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, identified as Attachment 5. The City of Fayetteville is one of the 17 cities which are parties to the MOA and must consider this matter for that reason. The NCACC also included the Towns of Hope Mills and Spring Lake as signatories. The county attorney will forward this packet to those towns and request that they also approve the MOA.

At its September 9, 2021, Agenda Session the Board approved adoption of the Resolution Approving the MOA Between the State of North Carolina and Local Governments and referred it to the September 20, 2021, regular board meeting as a consent item.

A RESOLUTION BY THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS APPROVING THE MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOID LITIGATION

WHEREAS, as of 2019, the opioid epidemic had taken the lives of more than 16,500 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast; and

WHEREAS, the COVID-19 pandemic has compounded the opioid crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total "economic burden" of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, certain counties and municipalities in North Carolina joined with thousands of local governments across the country to file lawsuit against opioid manufacturers and pharmaceutical distribution companies and hold those companies accountable for their misconduct; and

WHEREAS, representatives of local North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Memorandum of Agreement (MOA) to provide for the equitable distribution of any proceeds from a settlement of national opioid litigation to the State of North Carolina and to individual local governments; and

WHEREAS, Local Governments and the State of North Carolina anticipate a settlement in the national opioid litigation to be forthcoming; and

WHEREAS, by signing onto the MOA, the state and local governments maximize North Carolina's share of opioid settlement funds to ensure the needed resources reach communities, once a negotiation is finalized, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments to sign onto the MOA and demonstrate solidarity in response to the opioid epidemic, and to maximize the share of opioid settlement funds received both in the state and this county to help abate the harm; and

WHEREAS, the MOA directs substantial resources over multiple years to local governments on the front lines of the opioid epidemic while ensuring that these resources are used in an effective way to address the crisis.

NOW, THEREFORE BE IT RESOLVED, Cumberland County hereby approves the Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, and any subsequent settlement funds that may come into North Carolina as a result of the opioid crisis. Furthermore, Cumberland County authorizes the County Manager to take such measures as necessary to comply with the terms of the MOA and receive any settlement funds, including executing any documents related to the allocation of opioid settlement funds and settlement of lawsuits related to this matter. Be it further resolved that copies of this resolution and the signed MOA be sent to opioiddocs@ncdoj.gov as well as forwarded to the North Carolina Association of County Commissioners at communications@ncacc.org.

Adopted this the 20th day of September, 2021.

11. Purchase of Landfill Gas Pipeline and Assumption of Certain Contracts of Fayetteville Gas Producers, LLC, for the Sale and Delivery of Landfill Gas to Cargill, Incorporated

BACKGROUND

Federal regulations require that the gas generated by the landfill must be captured and burned, either as a fuel source for a commercial or industrial use or by a flare at the landfill. Fayetteville Gas Producers, LLC, has purchased the landfill gas from the county for more than 20 years and sold it to Cargill as a boiler fuel source through a pipeline and delivery system owned and installed by Fayetteville Gas Producers. Fayetteville Gas Producers is ceasing its operation of this system and has negotiated with the County for the County to purchase the system for \$350,000 to continue selling the gas to Cargill. The County had Smith+Gardner Engineers do a financial analysis of the project and they reported there was sufficient gas being generated for enough years for the sale of gas to Cargill to generate cumulative net income. Having an industrial use for the gas is also an environmental benefit over simply flaring it.

This is a complex transaction with multiple parties involved. The county has negotiated a satisfactory agreement with Fayetteville Gas Producers, LLC, which is attached. Incident to that agreement, the county has obtained a subaqueous easement for the pipeline to cross the Cape Fear River from the Council of State; an agreement for a rail crossing with CSX; and a Gas Sales Agreement with Cargill, Incorporated.

RECOMMENDATION / PROPOSED ACTION

At the Board's September 9, 2021, Agenda Session, the county attorney recommended the Board approve the Bill of Sale and Assumption Agreement for the purchase of the landfill gas pipeline and assumption of certain contracts of Fayetteville Gas Producers, LLC, for the sale and delivery of landfill gas to Cargill, Incorporated, and authorize the county manager to sign any documents necessary to complete this transaction. The Board accepted this recommendation and voted to move this action to the agenda of the September 20, 2021, regular meeting, as a consent item.

12. REMOVED FOR SEPARATE DISCUSSION AND ACTION AS RECORDED BELOW.

MOTION: Commissioner Lancaster moved to approve the consent agenda items except for Item 3.H.1. and Item 3.H.12 removed for separate discussion and action.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

- 3.H.1. Contribution to the Martin Luther King, Jr. Park and Historic Orange Street School and Approval of Budget Ordinance Amendment #B220344

BACKGROUND

During the September 9, 2021 Agenda Session meeting, the Board of Commissioners received a presentation from the MLK Board of Director members regarding development plans for the Martin Luther King, Jr. Park. Following the presentation, the Board of Commissioners

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unanimously approved a funding commitment of \$2,500,000 for the Martin Luther King, Jr. Park and \$500,000 for the historic Orange Street School project. The Board requested that staff work to develop parameters prior to paying out any funds for the two commitments which will be funded through the capital investment fund.

RECOMMENDATION / PROPOSED ACTION

At the September 9, 2021, Agenda Session, the Board approved placing the following action as a Consent Item on the September 20, 2021 Board of Commissioner's Meeting:

Approve Budget Ordinance Amendment #B220344 which allocates \$2,500,000 to the Martin Luther King, Jr. Park, and \$500,000 to the historic Orange Street School project utilizing capital investment fund balance totaling \$3,000,000.

Chairman Evans stated he asked to have this item pulled because the Board voted unanimously to provide funding to both the MLK Park and the Orange Street School; however, as with the North Carolina Civil War and Reconstruction History Center and the MLK Memorial Park, organizations are asked to provide a presentation to the Board to explain why they should receive funding and how the funding will be used. Chairman Evans stated the motion made by Commissioner Adams at the September 9, 2021, Agenda Session included funding for the Orange Street School and caught everyone by surprise. Chairman Evans stated in order to be fair, he would ask that the decision to fund \$500,000 for the Orange Street School be taken back to an Agenda Session meeting for a presentation or have Commissioner Adams explain why \$500,000 is being given to Orange Street School. Commissioner Adams stated he does not have a problem asking Orange Street School to provide a presentation.

MOTION: Commissioner Adams moved to take both funding items and place them on the October 18, 2021, agenda which will allow Orange Street School to come to an Agenda Session.

SECOND: Commissioner Lancaster

DISCUSSION: Chairman Evans stated it is not fair to have the MLK Board of Directors make another presentation to the Board, and it is not fair to delay action to the organization since they have done what they were asked to do. Chairman Evans stated there was no mention of Orange Street School until Commissioner Adams made the motion and it is not fair to fund Orange Street School until they say what they are going to do with the funds. Commissioner Adams stated it was not his intent for the MLK Board of Directors to return and make another presentation, his intent was for Orange Street School to make a presentation and then have the Board take action on funding both of them at the October 18, 2021 meeting. Commissioner Boose stated any concerns he had at the Agenda Session have been answered and he okay with the action taken; however, he is concerned with the Budget Ordinance Amendment utilizing capital investment funds that includes funding for both organizations. Commissioner Stewart stated her issue is that the motion at the Agenda Session meeting included funding for both organizations, so it was either approve funding for both or for neither. Commissioner Keefe stated he would like to hear a presentation from Orange Street School instead of just giving them money. Commissioner Adams stated that was the spirit of his motion. In response to a question posed by Commissioner Council, Ms. Cannon stated outside agencies are funded through the budget process.

RESTATED MOTION: Commissioner Adams moved to have Orange Street School present at the October 14, 2021, Agenda Session meeting and depending on what happens at the Agenda Session meeting, forward to the Board of Commissioners October 18, 2021, agenda.

SECOND TO RESTATED MOTION: Commissioner Lancaster

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

3.H.12. American Rescue Plan Funding Recommendations

BACKGROUND

Cumberland County has been allocated \$65.2 million in Coronavirus Local Fiscal Recovery Funds under the American Rescue Plan Act. The County’s three-member ARP Committee (Commissioner Jimmy Keefe, committee chair; Board Vice Chairman Glenn Adams and Commissioner Dr. Toni Stewart) met Sept. 7, 2021, to consider initial allocations for projects using the federal funding.

The ARP committee presented the following recommended projects totaling up to \$34,690,000 at the Sept. 9, 2021, Agenda session. The Board approved the following recommendations unanimously and directed that the item be placed on the Sept. 20, 2021, Regular Board Meeting agenda.

The allocations are up to the amounts listed.

· Generators for emergency shelters	\$ 1,800,000
· Narcan for Sheriff’s Office, Fire Departments	140,000
· Mortgage assistance program	2,000,000
· Rental assistance program	1,500,000
· Trade job training program	2,000,000
· Small local business assistance program	3,500,000
· Aid to non-profits serving residents affected by COVID-19	3,500,000
· Mobile technology lab and bookmobile (public library)	500,000
· Affordable housing project in Shaw Heights	10,000,000
· Homeless shelter – site selection and design costs	250,000
· First-time homebuyers’ program	2,500,000
· Sanitary Sewer System in Shaw Heights	5,000,000
· Comprehensive countywide feasibility study for water and sewer	2,000,000
Total	\$ 34,690,000

The Board also directed management to report back to the ARP Committee with an estimated amount of funds needed for administrative costs, to include staff positions in management, finance and engineering.

RECOMMENDATION / PROPOSED ACTION

Approve the funding recommendations from the ARP Committee and direct management and to report back to the ARP Committee with an estimated amount of funds needed for administrative costs, to include staff positions in management, finance and engineering.

Commissioner Adams stated he pulled this item because he did not want the excellent work of the ARP Committee passed over because of the benefit it will have on the community. At the request of Commissioner Adams, Ms. Cannon provided a brief description of each project and its associated allocation amount.

- MOTION: Commissioner Adams moved to approve the funding recommendations from the ARP Committee and direct management to report back to the ARP Committee with an estimated amount of funds needed for administrative costs, to include staff positions in management, finance, and engineering.
- SECOND: Commissioner Keefe
- VOTE: UNANIMOUS (7-0)

4. PUBLIC HEARINGS

A. FY2023 Community Transportation Program (5311) Grant Application

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BACKGROUND

Staff requests that a public hearing be held to authorize the FY 2023 Community Transportation Program (5311) grant application submittal which is due to NCDOT by October 8, 2021. A public hearing is required for the application for these specific funds.

This is an annual request that funds the Cumberland County Community Transportation Program which coordinates existing transportation programs operating in Cumberland County using local transportation providers.

The funding period will run from July 1, 2022, to June 30, 2023. Funding will be used to provide trips to work, school, medical, and general errands. The administrative portion will be used for salaries and fringes of the Transportation Coordinator and the Transportation Assistants, office supplies, driver drug and alcohol testing, travel to meetings and conferences, program marketing for all services provided to County residents, legal advertising and North Carolina Public Transportation Association (NCPTA) membership.

The Community Transportation Program is requesting funding in the following amounts from the NC Department of Transportation (a local match is required as noted below and is typically funded in the local FY Budget):

Project:	Total Amt.:	Local Share:
Administrative (5311)	\$184,813	\$27,722 (15%)

RECOMMENDATION / PROPOSED ACTION

Staff recommends the Board of County Commissioners hold the public hearing and authorize staff to apply for the FY2023 Community Transportation Program Section 5311 grant.

PUBLIC TRANSPORTATION PROGRAM RESOLUTION
FY 2023 RESOLUTION

Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.

Applicant seeking permission to apply for Public Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by (Board Member’s Name) and seconded by (Board Member’s Name or N/A, if not required) for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

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WHEREAS, non-Community Transportation applicants may apply for funding for “purchase-of- service” projects under the Capital Purchase of Service budget, Section 5310 program.

WHEREAS, County Manager of County of Cumberland hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

NOW, THEREFORE, be it resolved that the County Manager of County of Cumberland is hereby authorized to submit grant application (s) for federal and state funding in response to NCDOT’s calls for projects, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.

Hank Graham, FAMPO Director, presented the background information recorded above.

Chairman Evans opened the public hearing.

The clerk to the board stated there were no speakers.

Chairman Evans closed the public hearing.

MOTION: Commissioner Lancaster moved to authorize staff to apply for the FY2023 Community Transportation Program Section 5311 grant.
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

B. Edward Byrne Memorial Justice Assistance Grant

BACKGROUND

The Sheriff's Office is fortunate to again be eligible to apply for funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) through the United States Department of Justice (USDOJ). The grant continues the USDOJ efforts to support local law enforcement at the local level.

The Cumberland County Sheriff's Office and the City of Fayetteville Police Department must submit a joint application, but each agency may use the funds for their own priorities. The grant allocation is \$182,691, with \$27,810 for the Sheriff's Office and \$154,881 for the City of Fayetteville Police Department. The USDOJ requires the public be offered an opportunity to comment. The Sheriff's Office advertised the grant opportunity in the Fayetteville Observer on Saturday, September 4, 2021. We request the Public Hearing be held at the Board of Commissioners meeting on Monday, September 20, 2021.

A Memorandum of Understanding with the City of Fayetteville, which is required, has been prepared. The enclosed Program Narrative describes the intended use of the grant funds. In addition, we are enclosing the "Certifications by the Chief Executive of the Application Government" form, which must be signed by the Chair of the Board of Commissioners.

RECOMMENDATION / PROPOSED ACTION

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Conduct the Public Hearing, approve the Memorandum of Understanding, complete the Certification and Assurances by the Chief Executive of the Applicant Government form, and authorize the County Manger to sign the application submittal.

Ms. Cannon presented the background information and recommendation/proposed action recorded above.

Chairman Evans opened the public hearing.

The clerk to the board stated there were no speakers.

Chairman Evans closed the public hearing.

MOTION: Commissioner Lancaster moved to approve the Memorandum of Understanding, complete the Certification and Assurances by the Chief Executive of the Applicant Government form, and authorize the County Manger to sign the application submittal.
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

C. Community Development Program Year 2020 Draft Consolidated Annual Performance and Evaluation Report (CAPER)

BACKGROUND

Attached is the draft Program Year (PY) 2020 Consolidated Annual Performance and Evaluation Report (CAPER) prepared by Community Development. This document is available for public review and comment during the period September 3, 2021 – September 20, 2021. Copies have also been distributed to other locations throughout the County (See attached Public Notice). The final CAPER will be available in the County Commissioners office and at the Community Development office for viewing.

The PY2020 CAPER details program accomplishments and an assessment of our efforts in meeting the goals and objectives set forth in our Annual Action Plan for the period July 1, 2020 through June 30, 2021. Performance reporting meets three basic purposes: 1) it provides the U.S. Department of Housing and Urban Development (HUD) with necessary information for the Department to meet its statutory requirements to assess each grantee's ability to carry out relevant community development programs in compliance with all applicable rules and regulations; 2) it provides information necessary for HUD's Annual Report to Congress, also statutorily mandated; and 3) it provides grantees an opportunity to describe to citizens their successes in revitalizing deteriorated communities and meeting objectives outlined in the Consolidated Plan. This reporting tool assures that citizens, community groups, and other interest stakeholders in the community planning process are accurately informed of the use of these federal funds.

RECOMMENDATION / PROPOSED ACTION

Community Development requests that the Board of County Commissioners hold a public hearing on the draft PY2020 CAPER to offer input and comments, as well as receive comments from the public. No other action is necessary.

Dee Taylor, Community Development Director, referenced the background information recorded above and provided the following PowerPoint presentation of the CAPER for the reporting period of July 1, 2020, through June 30, 2021.

PROGRAM YEAR 2020 ENTITLEMENTS:

Community Development Block Grant (CDGB) Allocation = \$865,451

Home Investment Partnerships Program (HOME) Allocation = \$398,478

Other Funds:

Community Development Block Grant-CARES Act (CDBG CV) = \$944,404

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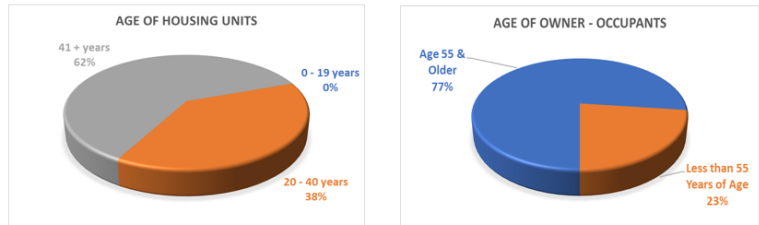
CONSOLIDATED PLAN PROCESS STATUS

Consolidated Plan (5 Year Strategic Plan)						
Determines Community Needs (through Community Input) Prioritizes those Needs Set Goals for Meeting those Needs						
2020 – 2024						
Program Year	Begins July 1st and ends June 30 th	Year 1 2020	Year 2 2021	Year 3 2022	Year 4 2023	Year 5 2024
Annual Action Plan	Describes projects and activities to undertake during the year	✓	✓			
Consolidated Annual Performance & Evaluation Report	Reports on accomplishments and progress of the completed year	✓				

PRIORITIES

Housing
Special Needs
Homeless
Non-housing Community Development
Economic Development

HOUSING AND SPECIAL NEEDS



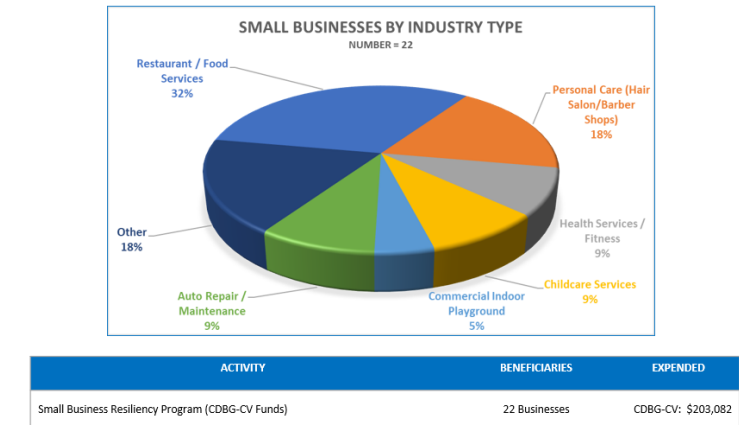
ACTIVITY	BENEFICIARIES / NEED	EXPENDED
- Housing Rehabilitation (Includes acquisition / rehabilitation)	14 Housing Units	CDBG: \$276,248 HOME: \$131,830
- Spring Lake Affordable Housing (Acquisition, Clearance, & Infrastructure)	Pending completion of 5 SF Homes	CDBG: \$197,000 HOME: \$7,730
- Project Delivery Costs	Staff / Housing Related Costs	CDBG: \$282,439
- Hillside Manor Apartments - Elderly (Installation of HVAC Systems)	Pending Completion of 32 Units	CDBG: \$117,125

COMMUNITY DEVELOPMENT AND HOMELESS NEEDS

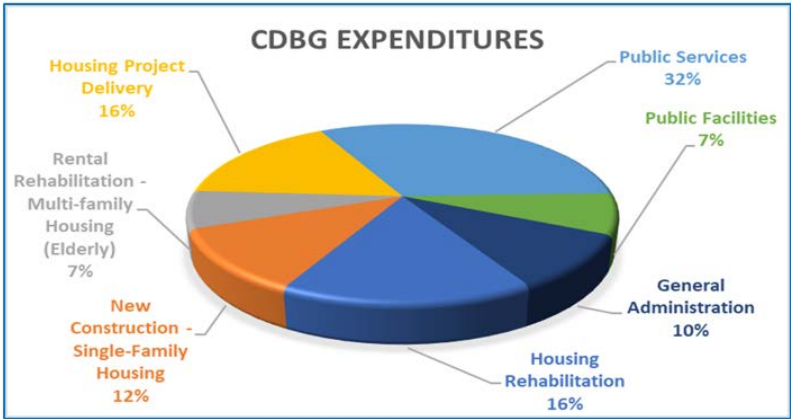
Public Services/Public Facilities: Myrover-Reese Fellowship Home Ashton Lilly Building

ACTIVITY	BENEFICIARIES / NEED	EXPENDED
- Rehab Myrover-Reese Fellowship Homes (Transitional Hsg) - Rehab Reveille Retreat (Transitional Hsg)	25 Persons	CDBG: \$127,705
-Better Health (Prescriptions, Eye Exams, & Dental) -CCMAP (Prescriptions) -Fayetteville Urban Ministry (Rental Assistance) -Endeavors, Inc. (Rental Assistance) -Kingdom CDC (Rental Assistance) -Cumberland HealthNet (Coordinated Entry – Referral System) -Salvation Army (Shelter Operations) -Homeless Services (CoC Program Match) -Public Services Project Delivery Costs	4,054 Persons 1,065 Persons (Referrals)	CDBG: \$548,515
-Cumberland Co. Public Health Dept. (Health Services)	Urgent Need	CDBG-CV: \$226,000
-Homeless Initiative (HMIS, DEA Position, and Services)	66 Persons (Services)	Gen. Funds: \$113,005 (Services = \$36,386)
-Continuum of Care Program (Robin's Meadow, Safe Homes for New Beginnings, CoC Planning)	81 Persons	HUD CoC Programs: \$122,640 Gen. Funds: \$24,323

ECONOMIC DEVELOPMENT NEEDS

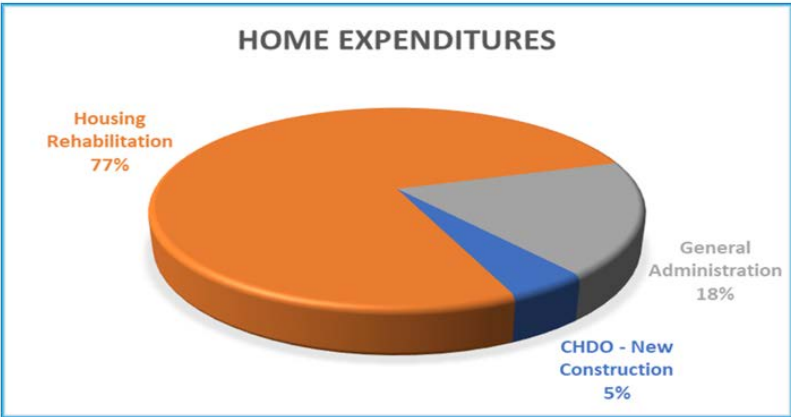


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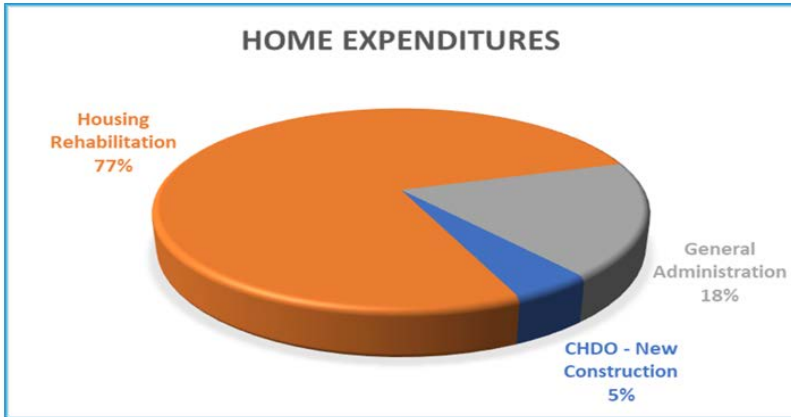
Housing Rehabilitation	\$276,248
New Construction - Single-Family Housing	\$197,000
Multi-family Housing (Elderly) - HVAC Installation	\$117,125
Housing Project Delivery	\$282,439
Public Services	\$548,515
Public Facilities	\$127,705
General Administration	\$169,298

Note: Includes Program Income



CHDO - New Construction	\$ 7,730.00
Housing Rehabilitation	\$131,830.00
General Administration	\$ 31,609.00

Note: Includes Program Income



Public Services	\$ 226,000.00
Economic Development	\$ 203,082.00
General Administration	\$ 1,878.00

CITIZEN PARTICIPATION

- September 3, 2021 – September 20, 2021
 - Document Available at several Locations County-wide
- September 20, 2021 – Public Hearing
- Report will be submitted to HUD by September 28, 2021

Ms. Taylor concluded her presentation and stated PY2020 began slower than usual but ramped up during the last two quarters.

Chairman Evans opened the public hearing.

The clerk to the board stated there were no speakers.

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Chairman Evans closed the public hearing.

No action was necessary.

Uncontested Rezoning Cases

D. Case P21-36 is a contested case. See Item 4.L. recorded below.

E. Case P21-31: Rezoning 25 acres +/- ac from RR Rural Residential District to R7.5 Residential /CZ Conditional Zoning District up to 77 lots with zero lot line development or a more restrictive zoning district, located south of Clinton Road, west of Forte Road, Nicholas, Brad, John, and David Hancock (owners).

Mr. Howard stated Case P21-31 is being brought back at the request of the applicant. 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 Planning and Inspections staff recommended approval and the Planning Board recommended approval by a vote of 6 to 3.

Chairman Evans opened the public hearing for Case P21-31.

The clerk to the board called the following speaker for Case P21-31:

Nick Hancock – Mr. Hancock appeared as a proponent and stated he was available for questions.

Commissioner Boose asked Mr. Hancock whether he owned other adjoining property and whether there were other access plans. Mr. Hancock pointed out another parcel he owned and stated it was included in the 25 acres and stated the only access planned is off Old Clinton Road, and the subject property backs up to dead land with a right of way to the right of way of a railroad that no longer exists. Commissioner Boose asked whether there was water. Mr. Hancock responded water and sewer are available.

Commissioner Keefe posed questions about the R7.5 designation, water and sewer, and whether the subject property was located in a flood plain. Mr. Howard stated water and sewer are available and there is the presence of hydric soils which does not necessarily mean a flood plain.

Commissioner Adams asked Mr. Howard to confirm that water and sewer would be available to all 77 lots since the subject property is outside of the Town of Stedman. Mr. Howard confirmed. Mr. Hancock stated he reached out to PWC and conducted a capacity study and PWC replied it would be available for city water and sewer; the main line is on Clinton Road and there is a lift station on Ford Road. Mr. Howard stated one of the conditions the Board will have to approve is that the development will be required to connect to the central water and sewer systems available to it. Commissioner Adams stated that requirement was not part of the motion. Mr. Howard stated when the Board adopts a conditional zoning, it is adopting all conditions to include those in the packet.

Phillip Strickland – Mr. Strickland appeared as a proponent and stated there is a 2008 letter from the Corp of Engineers that stated the entire 25 acres is uplands and there are not wetlands on the property. Mr. Strickland stated because the letter expired in 2013, he contracted with a firm for an updated jurisdictional determination wetland study and all communications have been positive.

Commissioner Boose asked whether that information was in the packet and/or part of the motion. Mr. Howard responded in the negative and stated as part of the conditions sheet it stated that the developer must go through all federal and state permitting agencies to get the development approved. Commissioner Boose asked whether approval of the rezoning would trump any determination by the Corp of Engineers. Mr. Howard responded in the negative.

Mr. Moorefield referenced #4 of the ordinance related conditions and the statement, “On-site septic tanks are not allowed” and stated it needs to include wells and state, “On-site septic tanks and wells are not allowed”. Mr. Moorefield stated he would ask that this be an amendment to the conditions, and they would have to agree to it because the motion would include “all conditions as stated and amended”.

Commissioner Keefe stated school capacity/enrollment seems tight when considering 77 lots and asked about the major opposition of Planning Board members. Mr. Howard stated there was not a lot of discussion as only one person spoke in favor and no one spoke in opposition, and there was very little deliberation prior to the vote. Commissioner Keefe asked how the half mile radius for notices was calculated for a 25-acre property. Howard explained the standard mailing protocol is 600 feet if in a town or MIA and 1,100 feet if in an unincorporated area or outside a MIA and stated 600 feet was the mailing radius for this case.

Chairman Evans closed the public hearing for Case P21-31.

MOTION: Commissioner Council moved in Case P21-31 to approve the rezoning request from RR Rural Residential District to R7.5 Residential/CZ Conditional Zoning allowing up to 77 lots Zero Lot Line Subdivision and find the approval:

- a. Requires an amendment to the currently adopted Stedman Area Land Use Map; and that the Board of Commissioners should not require any additional request or application for amendment to said map.
- b. The conceptual plan proposal would allow a density and lot size that would be comparable to lots in the surrounding area and zoning.
- c. Furthermore, the requested conditional zoning will ensure a subdivision plan proposal with recommended conditions that help mitigate any compatibility concerns with the existing land uses and surrounding zoning.

SECOND: Commissioner Lancaster

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

Mr. Moorefield stated he needed to clarify for the record, because it was not stated in the motion, that the conditions Commissioner Council referenced are the conditions stated in the agenda packet and as amended to prohibit wells as well as septic tanks on the lots. Mr. Moorefield asked Commissioner Council to affirm whether the language could be added to her motion. Commissioner Council responded in the affirmative. There was no opposition from Board members.

F. Case P21-45: Rezoning of 2.00 +/- acres from A1 Agricultural District to R40A Residential District or a more restrictive zoning district; located at 6154 Dunn Road; submitted by Linda Davis (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 and sewer is available, but connection is not allowed to the force main unless a gravity line is extended from the main to the connection. Mr. Howard stated the request is consistent with the Wade Study Area Land Use Plan. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-45.

The clerk to the board stated there were no speakers for Case P21-45.

Chairman Evans closed the public hearing for Case P21-45.

MOTION: Commissioner Lancaster moved in Case P21-45 to approve the rezoning request from A1 Agricultural District to R40A Residential District and find that the request is consistent with the Wade Study Area Land Use Plan which calls for Low Density Residential. Approval of the request is reasonable and in the public interest because

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the R40A Residential District would allow dwelling types and a density that would be compatible and in harmony with the surrounding land use activities and zoning.

SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

G. Case P21-48: Rezoning of 0.38 +/- acres from C2(P) Commercial District to C(P) Commercial District or a more restrictive zoning district; located at 3713 Cumberland Road; submitted by Brian Barber and Wendy Barber (owners).

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 request is consistent with the Southwest Cumberland Land Use Plan and Cumberland Road Business Plan which calls for Heavy Commercial at this location. Mr. Howard stated this is a busy area and the intent is to place a flea market on the .38 acres. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-48.

The clerk to the board stated there were no speakers for Case P21-48.

Chairman Evans closed the public hearing for Case P21-48.

Commissioner Keefe inquired about parking on the .38 acres relative to the setbacks for commercial zoning. Mr. Howard stated for C(P), parking can go on the setbacks. Commissioner Adams stated once the property is rezoned, it can be used for anything allowed under the C(P) designation. Mr. Howard confirmed that to be true. Commissioner Boose asked whether the current owners owned any of the other adjoining properties. Mr. Howard responded in the negative.

MOTION: Commissioner Keefe moved in Case P21-48 to approve the rezoning request from C2(P) Planned Service and Retail District to C(P) Planned Commercial District and find the request is consistent with the Southwest Cumberland Land Use Plan, which calls for Heavy Commercial, as well as the Cumberland Road Business Plan. Approval of the request is reasonable and in the public interest because the C(P) Commercial District would allow commercial activities that would be compatible and in harmony with the surrounding land use activities and zoning along the Cumberland Road Corridor.

SECOND: Commissioner Lancaster

DISCUSSION: Chairman Evans asked Commissioner Adams to expound on his concerns. Commissioner Adams stated his concern along Cumberland Road has always been related to all kinds of water and sewer problems and even though zoning in that area can be piecemealed, it will come to an end at some point. Mr. Howard stated it is more of a concern about sewer and he had a conversation with PWC to ask about plans to lay lines in that area and it all boiled down to money.

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

H. Case P21-50: Rezoning of 3.42 +/- acres from A1 Agricultural District to R40A Residential District or a more restrictive zoning district; located at 2380 Yarborough Road; submitted by Robert Spencer (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

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and zonings as well as soil conditions. Mr. Howard stated the request is compliant with the South-Central Land Use Plan. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval.

Chairman Evans opened the public hearing for Case P21-50.

The clerk to the board stated there were no speakers for Case P21-50.

Chairman Evans closed the public hearing for Case P21-50.

Commissioner Adams inquired about public sewer. Mr. Howard stated the site would have to be served by septic but there are water facilities.

MOTION: Commissioner Lancaster moved in Case P21-50 to approve the rezoning request from A1 Agricultural District to R40A Residential District and find the request is consistent with the South-Central Land Use Plan which calls for a Farmland designation. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning.

SECOND: Commissioner Council

VOTE: PASSED (6-1) (Commissioners Lancaster, Council, Keefe, Adams, Boose and Stewart; Commissioner Evans voted in opposition)

I. Case P21-51: Rezoning of 23.72 +/- acres from R10 Residential District to M(P) Planned Industrial District or a more restrictive zoning district; located at 3200 Natal St; submitted by Larry King and Associates (agents) on behalf of Purolator Filters NC, LLS (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 intent is for warehousing, storage, and expansion for the existing building. Mr. Howard stated the property backs up to a railroad and from staff's perspective, it is well suited for industrial use. Mr. Howard stated the request is compliant with the Southwest Cumberland Land Use Plan. Mr. Howard stated Planning and Inspections staff and the Planning Board unanimously recommended approval.

Chairman Evans opened the public hearing for Case P21-51.

The clerk to the board stated there were no speakers for Case P21-51.

Chairman Evans closed the public hearing for Case P21-51.

Commissioner Adams asked whether the Board had recently approved a similar request. Mr. Howard responded there was one for an office use. Commissioner Adams stated his concern is about what actually happens once a property is rezoned. Commissioner Boose asked whether the applicant owned any of the adjacent property. Mr. Howard stated the applicant owns the frontage but asked the Board to keep in mind there is no road access and the only way to get to the property is through the adjoining site. Mr. Howard stated the understanding is that the applicant wants to use the property for expansion.

MOTION: Commissioner Adams moved in Case P21-51 to approve the rezoning request from R10 Residential District to M(P) Planned Industrial District and find the request is consistent with the Southwest Cumberland Land Use Plan which calls for Industrial and Open Space. Approval of the request is reasonable and in the public interest as the district requested is in harmony and compatible with surrounding existing land uses and zoning.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0)

Contested Rezoning Cases

J. Case P21-33: Rezoning 41.98 acres +/- ac from A1 to R7.5 Residential/CZ Conditional Zoning District up to 122 lots zero lot line subdivision or a more restrictive zoning district, located west of NC 87 Hwy and south of Olaburns Dr: owners James Hubbard and Norma Garcia; Cheri and Marty Lassiter; Tommy and Debra Woodell; Travis Allen and Jill Elizabeth Hubbard; Pamela and Michael Domanski; Michael and Jodi Davis, Christopher Davis, Kristin Davis; Boyd Parsons Jr. and Mae Smith Parsons.

Mr. Howard stated included in the agenda packet was a letter from the applicant requesting that the case be remanded to the Planning Board. Mr. Howard stated his understanding is that the applicant would like to change some of the plans.

MOTION: Commissioner Boose moved to remand Case P21-33 to the Planning Board at the petitioner's request.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (7-0)

K. Case P21-43: Rezoning of 1.42+/- acres from R40A Residential District to RR Rural Residential District or to a more restrictive zoning district, located at 3662 Gabe Smith Road, submitted by Rose Jones (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 intent is to place an additional manufactured home on the back of the property. Mr. Howard stated Eastover water is available, but the site would have to be served by septic. Mr. Howard stated this case went to two meetings of the Planning Board; at the first meeting, the applicant requested R40 and staff recommended denial because it was not compliant with the Eastover Land Use Plan and at the second meeting after staff talked with the applicant, the case went as an alternative recommendation for R30. Mr. Howard stated R30 met the land use plan of 30,000 SF. Mr. Howard stated this is the reason the alternative recommendation of the Planning Board is for R30. Mr. Howard stated Planning Staff had no problem with R30.

Chairman Evans opened the public hearing for Case P21-43.

The clerk to the board called the following speakers for Case P21-43:

Rose Jones – Ms. Jones appeared as a proponent and stated she is present to respond to questions because her hope is that the outcome of her request will be favorable. Ms. Jones shared information about her personal situation and stated she would like to live next door to her 82 year old mother.

Chairman Evans closed the public hearing for Case P21-43.

Commissioner Adams asked if the land would perk with a structure already on the property. Mr. Howard stated a perk test is usually not done because of the cost until people know they have the entitlement. Commissioner Adams asked Ms. Jones if she was comfortable with the proposal for R30. Ms. Jones responded in the affirmative. Commissioner Boose stated that was also his question. Mr. Moorefield referenced the 1.42 acres and asked whether any of it was in the roadway right of way and whether staff confirmed there was at least 60,000 SF. Mr. Howard stated he was not aware of it being in any right of way.

MOTION: Commissioner Council moved in Case P21-43 to deny the request from R40A Residential District to RR Rural Residential District, and approve an alternative zoning district from R40A Residential District to R30A Residential District and find the alternative request consistent with the Eastover Area Land Use Plan, which

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calls for Rural Density Residential Maximum Density and requires that any lot within this designation to be at least 30,000 sq. ft. Approval of the R30A is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses, zoning, and lot sizes.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (7-0)

L. 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 stated this case was deferred from last month's meeting. Mr. Howard showed vicinity or location maps and aerial views of the subject property. Mr. Howard stated the intent is for small scale retail. Mr. Howard provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Howard stated there are some hydric soils but there is no water and sewer. Mr. Howard stated the site is in the Southeastern Cumberland Land Use Plan, the subject property is designated as within a commercial node and encourages the development of small commercial uses including some retail activity. Mr. Howard stated the request is considered consistent with the adopted land use plan. Mr. Howard stated Planning and Inspections staff supported the request and the Planning Board recommended approval by a 9 to 0 vote. Mr. Howard stated at last month's meeting, the applicant was asked to bring back materials addressing stormwater and Lock's Creek due to Commissioner Adams' concerns about flooding. Mr. Howard stated the engineer submitted several documents that should have been included in the packet, information was also placed at the dais and the engineer is present to respond to questions.

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

The clerk to the board called the following speakers for Case P21-36:

Thomas Neville – Mr. Neville appeared as a proponent and counsel for the owner/agent and stated Mr. Steve Oliverio from the engineering firm is also present to answer questions. Mr. Neville referenced the stormwater report contained in the agenda packet and stated he wanted to bring attention to how much of the land is impacted and how much is developed. Mr. Neville stated there is more impact to the surrounding property if left as A1 than as C(P). Mr. Neville quoted numbers from the stormwater report. Mr. Neville stated due to the surrounding area, C(P) makes sense, and it is in a commercial node. Mr. Neville stated the impact from the impervious area and stormwater is very small related to the entire tract. Mr. Neville pointed out the hydrograph graph and stated it is a summary of the documents provided to the Board and it shows that the CFS or the water flow is restrained or retained by the retention pond, even in a 100 Year flood event. Mr. Neville stated arguably the amount of water being introduced into any type of watershed is improved with the installation of the retention pond. Mr. Neville stated only 1.79 of the acreage even flows into the retention pond, the rest flows outside of the retention pond as part of the natural topography. Mr. Neville stated if anything, the request is improving the rate of water being introduced into this area, which is a positive impact. Mr. Neville stated he was not aware of any opposition to the request until this meeting and asked the Board to reach out for responses for specific points.

Commissioner Keefe asked Mr. Oliverio whether the development and stormwater drainage that was designed would be less of a stormwater problem than if left alone. Mr. Neville stated that was correct. Commissioner Adams stated Lock's Creek sits below and behind the property and asked whether the information provided was only related to the site and the pond, and not runoff impacting the Lock's Creek subdivision. Mr. Oliverio stated they looked at what was going into the creek at the site and the numbers show they are lowering the amount of flow that goes into there, up to a 100 years flood event. Commissioner Boose asked Mr. Oliverio what the calculation for the pond had to be to lessen the fall. Commissioner Boose stated he wanted to be sure that the wet pond construction meets the required calculations. Mr. Oliverio stated that is part of the

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preliminary stormwater report that was turned in, the calculations and graphs should be in the agenda packet and reflect what is required by the state. Mr. Oliverio stated that is how the pond was sized and also based on soils in the area.

Vickie Mullins – Ms. Mullins appeared as an opponent and referenced several areas displayed on the map. Ms. Mullins stated this is not Lock's Creek, it is Cedar Creek. Ms. Mullins stated when Hurricane Matthew came through, Dudley's Pond flooded, and the creek that goes behind Cedar Creek Baptist Church and the pond are no longer there and got turned back into wetlands, which is three houses from that property. Ms. Mullins stated there is already a Short Stop and Dollar General and the creek that runs under the road behind the church has flooded. Ms. Mullins stated nothing else is needed. Mr. Mullins stated there is also the presence of GenX in the water.

Walter Moorman, Jr. – Mr. Moorman appeared as an opponent, stated he spent four years doing land use planning and is present to speak as a citizen but also as a qualified land use planner. Mr. Moorman stated he is licensed by the State of N. C. as a landscape architect and formally did master land use plans all over the state. Mr. Moorman stated the land use plan for this area calls for the protection of rural landscapes and the commercial node is of no consequence, and it cuts through a lot of farms. Mr. Moorman stated when half of a property was rezoned, and it only means there is the potential for commercial development at that intersection; it does not mean that specific property is appropriate for commercial. Mr. Moorman stated there is a big washout under the road and it comes down the highway, and any commercial development results in runoff in addition to heavy metals, oil and other pollutants. Mr. Moorman stated to go to straight commercial zoning will allow anything allowed under the ordinance and if the Board sees fit to rezone the property, not go to straight commercial zoning but go to conditional zoning so the specific site plan can be reviewed.

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

Commissioner Keefe asked Mr. Oliverio whether the stormwater pond can adequately handle the situation. Mr. Oliverio stated what occurs off their site and beyond their site is out of their control. Mr. Oliverio stated they are controlling the amount of impervious drainage they will be producing and lowering that will effectively lower what is going into Cedar Creek. Commissioner Keefe stated the flooding happened without any development and what he is hearing is that there is a higher-level chance of flooding down into the Cedar Creek area than without building on the site. Mr. Oliverio stated that was speculative, but they will be lowering the amount of flow going into Cedar Creek with the development including the stormwater control measure of SCM pond. Commissioner Keefe asked Mr. Howard where the commercial node originated. Mr. Howard responded it was part of the planning process of the 2017 Southeast Cumberland Land Use Plan.

Commissioner Adams stated once rezoned, the site can be used for any commercial purposes, there will be runoff from parking lots, and it was stated water will not run into the creek, but it does not talk about the other areas for which concern was raised.

MOTION: Commissioner Keefe moved in Case P21-36 to recommend approval of the rezoning request from A1 Agricultural District to C(P) Planned Commercial District and find the request consistent with the Southeastern Cumberland Land Use Plan. The request is reasonable and in the public interest because the subject site is located within a Commercial Node and is within proximity of a road intersection. Also, as central water and sewer lines are not at or near the site, the scope and intensity of commercial development will be limited.

The motion died due to the lack of a second.

ORIGINAL MOTION: Commissioner Adams moved to deny the rezoning request from A1 Agriculture District to C(P) Planned Commercial District and find the request not consistent with the Southeastern Cumberland Land Use Plan. Denial of the request

is reasonable and in the public interest because the area is flood prone and this will further increase the flooding.

SECOND TO ORIGINAL MOTION: Commissioner Council

DISCUSSION: Commissioner Keefe stated in fairness to the applicant, they pleaded their case before the Planning Board, what was heard tonight was all speculation and they did not have a chance to review it and respond. Commissioner Keefe stated it is a bad policy. Commissioner Boose asked whether it would be out of order to send this case back to the Planning Board. Mr. Moorefield responded that would require another motion that has not yet been made. Commissioner Adams stated he wants to be fair to everybody and inquired about the procedure or rules for making a case contested. Mr. Howard responded conditions that automatically go to a contested case include: a staff recommendation opposite to what the applicant is proposing, if staff is in agreement with the applicant but the Planning Board is not in agreement, or if someone signs up to speak in opposition at the meeting of the Planning Board. Mr. Howard stated if the Planning Board as a body approves the request, staff recommend the request and the applicant agrees, it automatically goes to an uncontested case. Mr. Howard stated this case was uncontested in August and his understanding was that the Board wanted to get more information from the applicant and there was no one speaking in opposition at the meeting.

SUBSTITUTE MOTION: Commissioner Boose moved to send Case P21-36 back to the Planning Board for reconsideration based on what was heard at this meeting.

SECOND TO SUBSTITUTE MOTION: Commissioner Keefe

DISCUSSION: Commissioner Adams stated the case has been to the Planning Board and asked whether those who spoke in opposition received the same information as Commissioners. Mr. Howard stated the information was included in the agenda packet that is posted on the county's website.

VOTE ON SUBSTITUTE MOTION: FAILED (2-5) (Commissioners Keefe and Boose voted in favor; Commissioners Lancaster, Evans, Council, Adams and Stewart voted in opposition)

VOTE ON ORIGINAL MOTION: PASSED (6-1) (Commissioner Lancaster, Evans, Adams, Boose, and Commissioner Stewart voted in favor; Commissioner Council voted in opposition) (Commissioner Keefe failed to vote and not having been excused, his vote shall be recorded as voting in the affirmative.)

5. ITEMS OF BUSINESS

A. Consideration of Approval of Purchase Price for 20.18 Acres on the South Side of Elliot Farm Road on Behalf of the Cumberland County Board of Education

BACKGROUND

The Board of Education (BOE) purchased 20.8 acres on Elliot Farm Road from Broadwell Land Company for a future elementary school site on September 28, 2015. The purchase price was \$600,000 with \$200,000 being paid at closing and the remaining balance secured with a promissory note. The balance of the purchase price is to be paid upon completion of extension of water and sewer by the Developer. Water and Sewer has been extended and the BOE is seeking to finalize the purchase of this land.

The BOE is seeking approval of the purchase price by the Board of Commissioners pursuant to N.C. General Statute 115C-426(f). A letter from Dr. Connelly requesting the approval is attached as well as an appraisal of the 20 acres.

RECOMMENDATION / PROPOSED ACTION

This item was discussed at the September 9, 2021, Board of Commissioners Agenda Session Meeting. The vote was not unanimous. The Board requested that this item be moved to the September 20, 2021, as an Item of Business.

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Consider the request from the Board of Education for approval of the \$600,000 purchase price for 20.18 acres on Elliot Farm Road.

Ms. Cannon presented the background information recorded above and stated Dr. Marvin Connelly, Jr., Superintendent of Cumberland County Schools, on behalf of the Board of Education, asks that the Board approve the purchase price.

MOTION: Commissioner Council moved to approve the \$600,000 purchase price for 20.18 acres on Elliot Farm Road.
SECOND: Commissioner Lancaster
VOTE: PASSED (6-1) (Commissioners Lancaster, Keefe, Evans, Adams, Council and Stewart voted in favor; Commissioner Boose voted in opposition)

6. NOMINATIONS

A. Board of Adjustment (1 Vacancy)

Commissioner Adams nominated alternate member Vickie Mullins as a regular member.

B. Fayetteville Area Convention and Visitors Bureau (FACVB) (3 Vacancies)

Commissioner Adams nominated Tony Kotso-Poulos for the Local Business category and Sheba McNeill and Jimmy Keefe for the At-Large categories.

7. APPOINTMENTS

A. Board of Adjustment (1 Vacancy)

MOTION: Commissioner Adams moved to appoint Gregory Parks as a regular member.
SECOND: Commissioner Boose
VOTE: UNANIMOUS (7-0)

Mr. Moorefield provided an update on the redistricting status of the county commissioner districts. Mr. Moorefield stated although not final, he is optimistic that the population data will not require redistricting. Mr. Moorefield responded to questions that followed.

8. CLOSED SESSION:

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

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

MOTION: Commissioner Council moved to go into closed session for Economic Development Matter(s) pursuant to NCGS 143.318.11(a)(4) and for Attorney-Client(s) pursuant to NCGS 143-318.11(a)(3).
SECOND: Commissioner Boose
VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to reconvene in open session.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Boose moved to approve the Sheriff's Office arrangement to hire outside legal counsel in the matter of Roberts v. Deputy Hernandez.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (7-0)

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MOTION: Commissioner Stewart moved to adjourn.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (7-0)

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

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board