

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 15, 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, County Engineer
Rawls Howard, Planning and Inspections Director
Tye Vaught, Management Analyst
Candice H. White, Clerk to the Board
Kellie Beam, Deputy Clerk

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

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

Introduction of the Fayetteville-Cumberland Youth Council Members

Olivia Cody
Savannah Rowland (unable to be present)

Chairman Evans welcomed and introduced Fayetteville-Cumberland Youth Council member Olivia Cody, a junior at North Temple Academy, and Tyrone Thompson, a senior at Seventy-First High. Ms. Cody and Mr. Thompson provided highlights of the FCYC's plans for the holiday season.

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:

Bobbie Fernandez – Ms. Fernandez's daughter read a statement on her behalf about the death of her son by homicide, not being notified as the next of kin and not being able to properly identify her son. Ms. Fernandez asked to have laws put in place to help with death notifications for families of homicide victims.

Kathy Greggs – Ms. Greggs appeared on behalf of the Police Accountability Community Taskforce (PACT) and inquired about White Flag notifications for the homeless and people sleeping on the streets. Ms. Greggs also spoke about an international "Sleep Out" to end homelessness.

Carla Icaza – Ms. Icaza stated she is a mental health provider and there is a need for providers who cater to the Latino community and low-income individuals. Ms. Icaza stated she looked at the county's FY22 budget for mental health, and some of those funds are needed for rehab programs in Cumberland County.

Keith Gibbs – Mr. Gibbs appeared as a co-producer of Comic Con and spoke about the family friendly comic book and pop culture event, Comic Con fundraiser and charity events and cancellation of the June 2020 event at the Crown Complex due

to COVID-19. Mr. Gibbs stated Comic Con wants to work with the city and county to promote the 2022 event and invited everyone to attend on April 23 and 24, 2022.

Michael Boose – Commissioner Boose stated he is proud of the Board of Commissioners for their achievements this past year and he is pleased to be a member of the Board of Commissioners as they go about conducting the county's business.

1. APPROVAL OF AGENDA

MOTION: Commissioner Council moved to approve the agenda.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (7-0)

2. PRESENTATIONS

A. Presentation by Mrs. Mary Sonnenberg, President, Partnership for Children

BACKGROUND

Mrs. Mary Sonnenberg, President of the Partnership for Children, will be making a presentation to the Board of County Commissioners at their November 15, 2021 board meeting.

RECOMMENDATION / PROPOSED ACTION

No action required.

Mary Sonnenberg, President of the Partnership for Children, stated the Partnership for Children opened its doors nearly 30 years ago to support children and families with the core vision to ensure that every child has the support to enter kindergarten healthy and ready to succeed. Ms. Sonnenberg outlined the Partnership's community collaboration, programs/services and impact on the community.

Ms. Sonnenberg stated the original intent of Smart Start was to provide 25% of the local need, with the community and local support providing the balance of funds to meet needs; Cumberland County is currently meeting an estimated 18% of the need with available funding. Ms. Sonnenberg stated the Partnership has remained operational to support children and families in our community through disaster, worked tirelessly to strengthen capacity in the face of lost revenue opportunities, staffing shortages and challenges, and increased operational costs.

Ms. Sonnenberg acknowledged the following as it relates to Cumberland County:

- High Birth Rate
- High Child Abuse and Neglect Rate
- Early Care and Education Reimbursements Are Not Aligned
- Our Family Resource Center is a Hub for Services

Ms. Sonnenberg stated current Partnership priorities include the following:

- Program/Services Support
Continue coordinated support services and early care and education support services to ease the burden on families.
- Provide Infrastructure Support
Make necessary repairs to the infrastructure of the Family Resource Center which will allow the organization and partner organizations to continue serving the community.
- Promote Sector Economic Stability
Increased NC Pre-K rates to get private sites to market rate and Cumberland County Schools and Head Start to the allowable state rate.

Ms. Sonnenberg stated the Partnership is proud to be the home of Family Connects North Carolina, Southeastern Region, a community-wide in-home nurse visiting program available to families with newborns in Cumberland, Hoke, or Robeson Counties. Families who sign up and are eligible will receive a virtual visit by a specially trained registered nurse visit around three weeks after birth. There is no cost to the family. Family Connects data shows that 94% of families benefited from additional education or connections to community resources regardless of income. Evidence from the Family Connects model shows families who participated in the program had a 44% lower rate of Child Protective Services investigations for suspected child abuse or neglect through child age 2 and a 39% lower investigation rate through child age 5.

Ms. Sonnenberg stated the Partnership and 23 partner organizations share a building through strategic leasing to like-minded nonprofits and for-profit organizations collectively known as the Family Resource Center. Ms. Sonnenberg stated due to funding source restrictions on facilities and capital expenditures, the Partnership can only provide an annual maintenance level budget from rental income and a small amount from state funding. Ms. Sonnenberg stated due to structural issues and severe weather-related damage that has occurred over the life of the building, safety issues have also arisen, and if the building continues to sustain damage, the Partnership and partner agencies will need to find new offices to conduct business. Ms. Sonnenberg stated the total projected budget for the project is \$1.7 million and the loss of the FRC would negatively impact families in the City of Fayetteville and Cumberland County and our tenants' small businesses.

Ms. Sonnenberg concluded her presentation and stated the Partnership needs additional dollars, will leverage whatever resources are available to ameliorate and mitigate its financial issues and is a qualified childcare organization under ARPA funding guidelines.

3. CONSENT AGENDA

- A. Approval of November 1, 2021, Regular Meeting Minutes
- B. Approval of NC Department of Natural and Cultural Resources, Division of Archives and Records - Records Retention and Disposition Schedule for General Records and Program Records for Local Government Agencies Effective October 1, 2021

BACKGROUND

Updates to local government retention schedules for General Records and Program Records have been approved by the North Carolina Department of Natural and Cultural Resources - Division of Archives and Records. The documents are attached for review for governing board approval. The new updates are effective October 1, 2021.

The 2021 General and Program Records Schedules for Local Government Agencies is a new retention schedule created from the former County Management (last updated in 2013) and Municipal (last updated in 2012) retention schedules.

This schedule contains specific functions of government at county and municipal levels. This schedule contains a standard for Law Enforcement records, but County Sheriff's Offices should continue to use their specific standalone schedule. Similarly, the schedule also contains a Tax Records standard. County Tax Administration offices should continue to follow the County Tax Administration schedule.

RECOMMENDATION / PROPOSED ACTION

Adopt the October 1, 2021, General and Program Records Schedule for Local Government Agencies and sign the respective signature pages for each document.

- C. Approval of Health Department Delinquent Accounts to Be Turned Over to the NC Debt Set-Off Program

BACKGROUND

At the Board of Health meeting on October 19, 2021, the Board approved writing off a total of \$22,839.32 as bad debts. The bad debt accounts with balances of \$50.00 or higher will be processed through the North Carolina Debt Setoff Program. This program can attach to a debtor's State

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Income Tax refund and/or lottery winnings for payment of bad debts. The accounts with balances under \$50.00 will continue to be worked for collection through our in-house collection efforts. This write-off of bad debts is compliant with the Cumberland County Health Department's Debt Collection Policy 02-03 to write-off bad debts every quarter.

RECOMMENDATION / PROPOSED ACTION

The Health Department requests approval to write-off \$22,839.32 in bad debts and to turn these debts over to the North Carolina Debt Setoff Program.

CUMBERLAND COUNTY DEPARTMENT
OF PUBLIC HEALTH
DELINQUENT ACCOUNTS TO BE TURNED OVER FOR COLLECTION
BAD DEBT WRITE OFF #65
September 30, 2021

PROGRAM	AMOUNT
ADULT HEALTH CLINIC	\$190.00
CHILD HEALTH CLINIC	\$2,780.87
FAMILY PLANNING CLINIC	\$18,794.63
IMMUNIZATIONS	\$1,015.95
MATERNAL HEALTH CLINIC	\$57.87
TOTAL	\$22,839.32

All bad debt accounts with balances of \$50.00 or higher, will be sent to the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax Refund for payment of bad debts.
The above accounts are 90 days old or older as of 6/30/2021

- D. Approval of Declaration of Surplus County Property, Authorization to Accept Insurance Settlement and Budget Ordinance Amendment #B220099

BACKGROUND

Date of Accident: September 30, 2021
Vehicle: 2011 Crown Victoria
VIN: 2FABP7BVXBX138368
Fleet#: FL484
Department: Sheriff's Office
Settlement Offer: \$5,336.81
Insurance Company: Travelers

This is a total loss settlement offer.

RECOMMENDATION / PROPOSED ACTION

Risk Management recommends that the Board of Commissioners:

1. Declare the vehicle described above as surplus.
2. Authorize the Accounting Supervisor to accept \$5,336.81 as settlement (\$6,336.81 - \$1,000.00 deductible).
3. Allow Travelers to take possession of the wrecked (surplus) vehicle.
4. Approve Budget Ordinance Amendment BR#220099 in the amount of \$5,336.81 recognizing the insurance settlement. Please note this amendment requires no additional county funds.

- E. Approval of Formal Bid Award for the Enterprise Time Keeping System

BACKGROUND

Funds in the amount of \$220,000 have been appropriated in the Capital Investment Fund fiscal year 2022 budget to purchase an Enterprise Time Keeping System for the County. The purpose of

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the new Time Keeping system is to streamline and improve the time keeping and payroll process and to acquire a Time Keeping system that meets the needs of all County departments. The new system will create efficiencies in operations by electronically storing, calculating, and processing employee time and attendance.

A formal bid process was conducted and a total of 5 proposals were received and evaluated. The evaluation results determined that the Time Clock Plus (TCP) proposal scored the highest and in addition was lowest bid at a total cost of \$153,293 for the first year which includes software purchase and implementation cost. The County Finance Department and Management concur with awarding the bid to Time Clock Plus (TCP).

RECOMMENDATION / PROPOSED ACTION

This item was presented at the November 9, 2021 Agenda Session and the Board approved placing the following action as a Consent Item on the November 15, 2021 Board of Commissioners Meeting: Award Bid Number 21-12-IS totaling \$153,293 to Time Clock Plus (TCP) based on the best overall value standard of award.

- F. Approval of Contract Renewal with Strickland's Portion Pak for Food Products for Detention Center

BACKGROUND

The Cumberland County Sheriff's Office requests approval to renew the contract with Strickland's Portion Pak 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. Strickland's Portion Pak provides a variety of food products, including canned good and perishable products, that meet governmental nutritional regulations. The term of this renewal is July 1, 2021 to June 30, 2022 totaling \$200,000.

RECOMMENDATION / PROPOSED ACTION

Approve the contract renewal with Strickland's Portion Pak for food products for the Detention Center for \$200,000 for the July 1, 2021 through June 30, 2022 term and authorize Board of Commissioners' Chairman to sign the contract.

- G. Approval of Contract Renewal with US Foods, Inc for Food Products for Detention Center

BACKGROUND

The Cumberland County Sheriff's Office requests approval to renew the contract with US Food, 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. US Food, Inc provides a wide range of food products for the Detention Center that meets governmental nutritional regulations. The term of this renewal is July 1, 2021 to June 30, 2022, totaling \$600.000.

RECOMMENDATION / PROPOSED ACTION

Approve the contract renewal with US Food, Inc for food products for the Detention Center for \$600,000 for the July 1, 2021 through June 30, 2022 term and authorize the Board of Commissioners' Chairman to sign the contract.

- H. Approval to Pay Prior Year Invoices

BACKGROUND

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

Department: Community Development

Vendor: Cumberland HealthNet

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Invoice Date: 07/09/2021

Total Amount: \$3,597.08

Department: Health

Vendor: American Sexual Health Association

Invoice Date: 08/21/2020

Total Amount: \$725.00

Department: Health

Vendor: Bridgette Mack

Invoice Date: 06/30/2021

Total Amount: \$112.56

Department: Health

Vendor: Audrey Pacheco

Invoice Date: 06/30/2021

Total Amount: \$91.28

Department: Health

Vendor: NC Dept of Admin - Courier Service

Invoice Date: 05/18/2021

Total Amount: \$753.30

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay prior year invoices for Community Development totaling \$3,597.08 and the Health Department totaling \$1,682.14.

- I. Approval of Sale of Surplus Real Property Located at 4777 Old Savannah Church Road, Fayetteville

BACKGROUND

On October 18, 2021, the Board adopted a resolution of its intent to accept an offer to purchase property with PIN 0461-39-9250, being Lot 1.00 Acre Hair Land Church Property, located at 4777 Old Savannah Church Road, Fayetteville, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. Ryan Zielinski made the offer to purchase the property for \$7,517.96. The parcel is zoned A1, with a tax value of \$60,200.00. Based on the County GIS Parcel View System and the tax records, there is a structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on October 22, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

- J. Approval of Sale of Surplus Real Property Located at 6513 Celestial Pine Drive, Hope Mills

BACKGROUND

On October 18, 2021, the Board adopted a resolution of its intent to accept an offer to purchase property with PIN 0432-14-7939, being Lot 61 Cedar Oaks, Section 4, Plat Book 75 at Page 45, located at 6513 Celestial Pine Drive, Hope Mills, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. Michele Patak made the offer to purchase the property for \$9,936.07. The parcel is zoned A1, with a tax value of \$16,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on October 22, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

K. Approval of Sale of Surplus Real Property Located at 1709 Albacore Circle, Hope Mills

BACKGROUND

On October 18, 2021, the Board adopted a resolution of its intent to accept an offer to purchase property with PIN 0442-66-5794, being Lot 1449 Twin Oaks, Section 4, Plat Book 82 at Page 116, located at 1709 Albacore Circle, Hope Mills, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. James Frederickson made the offer to purchase the property for \$4,519.61. The parcel is zoned RR, with a tax value of \$10,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on October 22, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

L. Approval of Sale of Surplus Real Property Located off Colliers Chapel Church Road, Fayetteville

BACKGROUND

On October 18, 2021, the Board adopted a resolution of its intent to accept an offer to purchase property with PIN 0547-75-0999, located off Colliers Chapel Church Road, Fayetteville, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. Connie McBryde made the offer to purchase the property for \$1,500.00. The parcel is zoned R6A, with a tax value of \$5,000.00. Based on the County GIS Mapping and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on October 26, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

RECOMMENDATION / PROPOSED ACTION

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

M. Acceptance of Offer to Purchase Surplus Property Located at 778 Rembrandt Drive, Fayetteville

BACKGROUND

The County acquired the real property with the PIN 9487-62-8787, being Lot 15 Sunset Park, Section 1, Plat Book 27 at Page 25, located at 778 Rembrandt Drive, Fayetteville, at a tax foreclosure sale in 2015 for a purchase price of \$7,506.24. The property is zoned SF6 with a tax value of \$8,000.00. Based on the GIS Mapping and the tax records, there is no structure on the lot. Tracey McDonald, on behalf of Source Property Management LLC, made an offer to purchase the property for \$7,506.24. 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.

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RECOMMENDATION / PROPOSED ACTION

The County Attorney recommends the Board consider the offer of Tracey McDonald, on behalf of Source Property Management 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 9487-62-8787, being Lot 15 Sunset Park, Section 1, Plat Book 27 at Page 25, located at 778 Rembrandt Drive, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$7,506.24. 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.

- N. Acceptance of Offer to Purchase Surplus Property Located at 7645 Maggie Circle, Fayetteville

BACKGROUND

The County and the City of Fayetteville acquired the real property with the PIN 9486-57-1515, being IMP with Lot 166.1 x 165 Gillis Land, located at 7645 Maggie Circle, Fayetteville, at a tax foreclosure sale in 2008 for a purchase price of \$6,838.39. The property is zoned AR with a tax value of \$14,625.00. The City conveyed its interest in the property to the County on November 5, 2021, by a quitclaim deed recorded in Book 11303 at Page 329. 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 \$6,838.39. 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 9486-57-1515, being IMP with Lot 166.1 x 165 Gillis Land, located at 7645 Maggie Circle, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$6,838.39. 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.

- O. Approval of Budget Ordinance Amendments for the November 15, 2021 Board of County Commissioners' Agenda

BACKGROUND

General Fund 101

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- 1) Library – Budget Ordinance Amendment B221004 to recognize Emergency Connectivity Funding in the amount of \$30,392

The Board is requested to approve Budget Ordinance Amendment B221004 to recognize Emergency Connectivity Funding (EFC) in the amount of \$30,392. These funds will be used to provide mobile hotspots at Cumberland County Libraries.

Please note this amendment requires no additional county funds.

REGARDING THE FOLLOWING ITEM #2-3 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. This revision is not using ‘new’ funds but are recognizing the use of FY21 funds in FY22.

General Fund 101

- 2) Facilities Maintenance – Budget Ordinance Amendment B221047 to re-appropriate funds in the total amount of \$7,247

The Board is requested to approve Budget Ordinance Amendment B221047 to re-appropriate funds in the total amount of \$7,247. These funds will be used to pay for goods ordered in FY21 but received in FY22.

- 3) General Government Other – Budget Ordinance Amendment B220008 to re-appropriate funds in the total amount of \$8,000

The Board is requested to approve Budget Ordinance Amendment B220008 to re-appropriate funds in the total amount of \$8,000. These funds will be used to pay for consulting services rendered in FY21 but invoiced in FY22.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

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

1. Renovation Request from the Clerk of Superior Court

BACKGROUND

Due to an increase in demand for services, the Clerk of Superior Court is requesting renovations and furnishings to improve service in the Estate Division (please see attached memo). Staff has reviewed the request and determined that approximately \$12,300 would be needed to make the requested changes and obtain the furnishings (renderings and quotes also attached). Funding for the project is available in Court Facilities.

RECOMMENDATION / PROPOSED ACTION

At their November 9, 2021 Agenda Session, the Board of Commissioners approved this item to be placed on the November 15, 2021 Regular Meeting agenda as a Consent Item. Staff recommends approval of the renovation and furnishings request.

2. Request from PWC to Amend the Franklin Street Parking Garage Agreement

BACKGROUND

The County entered into an Interlocal Agreement with the City and PWC June 7, 2010, relating to the funding of the Franklin Street Parking Garage owned by the City. The County committed the

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increase in property tax revenues within the downtown business district over the base year of 2011 to the City for payment on the parking garage until the debt incurred by the City for the initial construction of the parking garage was retired. In consideration of the County's commitment to funding, PWC agreed to provide bulk water to the County for any of its rural water districts through June 30, 2030. The indefinite debt repayment term was not a good agreement for the County, but the County did the agreement because it was seeking USDA funding for a water system in Gray's Creek Water & Sewer District and the County had been unable to obtain a water purchase agreement from PWC without the parking garage agreement.

The City asked for an amendment to the Agreement in 2018 to carve out the "Stadium Re-development Site," which was made subject to a separate tax increment funding agreement. The City agreed to change the indefinite repayment term to a term ending December 31, 2030, at that time.

PWC has now asked for a second amendment to the agreement which extends PWC's right to reserve parking spaces in the parking garage for the use of the Robert C. Williams Building to June 30, 2053 and gives PWC the right to assign its interest in the parking capacity to a third party. This does not affect the County because the County's commitment to the increment tax funding lasts to December 31, 2030, regardless of the tax status of the Robert C. Williams Building. This portion of the agreement only affects the City and PWC, and the City has already approved it.

It is the opinion of the County Attorney that this amendment is already done by the action of the City and PWC approving it because the amendment does not affect the County's obligation for payment of the tax revenue or right to obtain bulk water until June 30, 2030. Those are the only obligation and right the County has. PWC insists the County must approve the Amendment.

RECOMMENDATION / PROPOSED ACTION

The Board may certainly approve the amendment as requested by PWC. The county attorney recommends the Board to request PWC to extend the term of the County's right to purchase bulk water under the Agreement to coincide with the June 30, 2053, extension of PWC's rights under the agreement.

The Board unanimously approved the Second Amendment to the agreement as requested by PWC at its November 9, 2021, Agenda Session,

3. Contract for Volunteer Fire Department Radio Purchase

BACKGROUND

In Fiscal Year (FY) 2021, the Board of Commissioners approved an agreement with Stoney Point Fire Department, Inc. to purchase replacement radios as part of an effort to obtain updated radio technology that will be compliant with Federal Communications Commission (FCC) requirements that become effective in 2025. This initial purchase was the first step in obtaining FCC compliant radios for the fire service in Cumberland County.

In order to complete the countywide radio update and obtain the remaining radios for the fire service, Stoney Point Fire Department proposes to enter into the attached agreement with Cumberland County. The fire department will finance the \$3,085,746.05 purchase and will request reimbursement in the amount of a \$500,000 payment in FY22 and \$553,996.40 for five consecutive years, starting in FY23, from Cumberland County until the full cost of the radios has been reimbursed. Funding will come from the Cumberland County Fire District Grant Fund.

Attached are copies of relevant information supporting this request.

RECOMMENDATION / PROPOSED ACTION

At their November 9, 2021 Agenda Session, the Board of Commissioners approved this item to be placed on the November 15, 2021 Regular Meeting agenda as a Consent Item. Staff recommends approval of the contract with Stoney Point Fire Department and requests the Board authorize the County Manager to sign the contract.

4. Update to the Fort Bragg Regional Land Use Advisory Commission (RLUAC) Bylaws

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BACKGROUND

Over the past year, the Fort Bragg Regional Land Use Advisory Commission (RLUAC) has developed and voted to approve amendments to its bylaws that modernize its governance structure and implement the organization's Strategic Plan. The next step in the process requires the approval of two-thirds of the local government members of RLUAC to officially amend the bylaws. The bylaws were last updated in 2005.

Highlights of the bylaws update include:

1. Expanding and clarifying the mission of the organization; including the relationship with Ft. Bragg.
2. Updating NCGS State Statute references.
3. Expanding upon membership relationships to the organization to now include regular, associate, and individual members. This also includes how and what manner each membership class may vote on organizational business.
4. Include procedures for remote meetings.
5. More clearly outlines roles and responsibilities of Commission officers and boards and committees.

The current local government members include the counties of Cumberland, Harnett, Hoke, Moore, Richmond, Robeson, and Sampson; and the municipalities of Aberdeen, Eastover, Erwin, Fayetteville, Hoffman, Hope Mills, Laurinburg, Lillington, Pinebluff, Pinehurst, Raeford, Spring Lake, Southern Pines, Vass, and Wagram.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the bylaws update. At their November 9, 2021 Agenda Session, the Board of Commissioners approved this item to be placed on the November 15, 2021 Regular Meeting agenda as a consent item.

RESOLUTION OF ADOPTION FORT BRAGG REGIONAL LAND USE ADVISORY COMMISSION BYLAW REVISIONS

WHEREAS, The Fort Bragg Regional Land Use Advisory Commission (RLUAC) was established in 1991 at the conclusion of the Joint Land Use Study to serve as a regional forum to advance planning and communication between the military bases and the surrounding local governments; and

WHEREAS, RLUAC was established in 1991 under the authority of NCGS 160A-461 for the purpose of interlocal cooperation and was subsequently incorporated as a 501(c)3 membership-based non-profit organization in 2004; and

WHEREAS, RLUAC is the leading advocate for coordination and collaboration between Fort Bragg and local governments on issues related to compatible growth and environmental sustainability in the North Carolina Sandhills region; and

WHEREAS, Cumberland County is a member of RLUAC; and

WHEREAS, On November 19, 2020, and on August 19, 2021, RLUAC approved amendments to modernize its governance structure and implement the organization's strategic plan; and

WHEREAS, Approval of two-thirds of the local government members of the Commission is needed to officially amend the bylaws.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY HEREBY APPROVES THE REVISED RLUAC BYLAWS AS AMENDED ON NOVEMBER 19, 2020 AND ON AUGUST 19, 2021 AT THE QUARTERLY MEMBERSHIP MEETINGS OF RLUAC.

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Adopted this 15th day of November 2021, by the Board of County Commissioners of Cumberland County.

5. Martin Luther King, Jr. Memorial Park Capital Project Budget Ordinance #B220101

BACKGROUND

The Board of Commissioners previously approved a \$2.5 million contribution to support construction of a capital project being undertaken by the non-profit corporation, the Fayetteville/Cumberland County Dr. Martin Luther King, Jr. Committee. To account for the capital project details for this unique contribution to a non-profit corporation, the attached capital project budget ordinance was developed. The ordinance establishes basic parameters which will later be followed by a contractual agreement. The capital project budget ordinance will remain in effect for the life of the project and requires Board of Commissioner approval prior to any changes being made.

This item was presented during the November 9, 2021 Agenda Session meeting. The ordinance now includes a new section seven which adds a requirement for the County Manager to present a progress report within three years of ordinance adoption, on the project status and the amount of funds disbursed.

RECOMMENDATION / PROPOSED ACTION

Adoption of Capital Project Budget Ordinance #B220101 as agreed to by consensus during the November 9, 2021 Agenda Session meeting.

**CAPITAL PROJECT BUDGET ORDINANCE #B220101
MARTIN LUTHER KING, JR. MEMORIAL PARK
CUMBERLAND COUNTY CAPITAL PROJECT FOR CONSTRUCTION TO BE
UNDERTAKEN BY FAYETTEVILLE\CUMBERLAND COUNTY DR. MARTIN L. KING,
JR. COMMITTEE, A NORTH CAROLINA NON-PROFIT CORPORATION**

The Cumberland County Board of Commissioners hereby adopt the following Capital Project Ordinance in accordance with North Carolina General Statutes 159-13.2:

Section 1. The project authorized is the erection of a memorial spire set in a circular, stone meditation plaza in the Martin Luther King, Jr., Memorial Park located in, and owned by, the City of Fayetteville. This construction project is to be undertaken by the Fayetteville/Cumberland County Dr. Martin L. King, Jr., Committee, a North Carolina non-profit corporation. The revenue source will be a transfer from the Capital Investment Fund Balance, to the MLK, Jr. Memorial Park Project.

Section 2. The following projected expenditure is appropriated for this project:

	Expenditure
Capital Outlay – Other	\$2,500,000

Section 3. The following associated revenue is appropriated for this project:

	Revenue
Transfer from the Capital Investment Fund	\$2,500,000

Section 4. No county funds subject to this Capital Project Ordinance shall be used for any activities undertaken by the non-profit corporation before the non-profit corporation has entered into a contract with the county which sets out the obligations of the non-profit corporation in undertaking this project and is approved by the Board of Commissioners. The contract shall identify the project budget and source of funds for completion of the project, the project design, the scope of work, the schedule of completion, the procedure for the disbursement of funds, the provisions for maintenance of the project after completion, and any other matters deemed necessary or prudent by the Board of Commissioners.

Section 5. This project shall be undertaken by the non-profit corporation in all respects as a public construction project fully subject to the requirements of Chapter 143 of the North Carolina

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General Statutes as applied to local governments. Incident to that statutory compliance, the Cumberland County Board of Commissioners must approve any design, architectural, engineering, surveying, or construction manager professionals for the project; any bid accepted for any contract for construction on the project; any bonds received incident to bidding or contracting for the project; and all contracts for the expenditure of any funds for the project.

Section 6. Any increase or decrease in the funds appropriated to this capital project ordinance shall require a capital project ordinance amendment by the Board of Commissioners.

Section 7. The county manager shall present a report on the status of the project to the board of commissioners at one of the board's meetings in November 2024. The report shall describe the progress made on the construction of the project and the amount of county funds disbursed through this project ordinance.

Section 8. Within five days after adoption, copies of this ordinance shall be filed with the Finance Officer, Budget Officer, and Clerk to the Board, to be kept on file by them for their direction in the disbursement of County funds for this project.

Adopted this 15th day of November 2021.

6. Amendment to County Purchasing Policy

BACKGROUND

A change is being requested to the County's Purchasing Policy within the Addendum, Uniform Guidance Procurement Policy for North Carolina Local Governments. During the recent UNC School of Government's American Rescue Plan Act training, staff learned of additional flexibility allowed for architectural and engineering services. The added language will allow the County to follow the state's Mini-Brooks Act Exemption for amounts up to \$50,000 for federally funded A&E services.

This item was presented at the November 9, 2021 Agenda Session meeting, The requested changes are shown in red font within the attachment, beginning on page ten, item J.

RECOMMENDATION / PROPOSED ACTION

At the November 9, 2021 Agenda Session, the Board approved placing the following action as a Consent Item on the November 15, 2021 Board of Commissioners' Meeting: Approval of an amendment to the County's Purchasing Policy as referenced in the attached draft policy.

Cumberland County

Section I – Board Approved Policies

Subsection 3: Cumberland County Financial / Audit

Policy No. 3-3: Purchasing Policy

The following policy was originally adopted on June 21, 1999 by the Board of Commissioners. This policy was amended on February 25, 2002, November 1, 2010, June 5, 2017, June 18, 2018, August 6, 2018, June 21, 2021, and November 15, 2021, by the Board of Commissioners.

1.0 PURPOSE

This policy is established to ensure the fair and equitable treatment of all persons involved in public purchasing, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity, in accordance with North Carolina General Statutes (N.C.G.S) and federal law.

2.0 SCOPE

This policy applies to all County employees conducting purchases on behalf of Cumberland County. Any reference of “department head” throughout this policy is inclusive of the elected offices of the Register of Deeds and the Sheriff, as well as any interim assignments of department head responsibilities. Any reference to approval authority of the County Manager shall also apply to the County Manager’s designee as authorized in writing by the County Manager in their absence.

3.0 POLICY

3.1 Local Preference Policy

Contracts for the provision of services in any amount and all contracts for the purchase of apparatus, materials, supplies and equipment in which the aggregate purchase price in any single contract is less than \$30,000 shall be awarded to local vendors or suppliers, to the greatest extent possible, in accordance with the further conditions set out herein.

Local vendors or suppliers shall be those who demonstrate that they pay business personal or real property taxes and are either self-employed residents of Cumberland County or employ at least one resident of Cumberland County as an employee or officer of the contracting business entity.

3.2 Purchase Orders

All services and purchases in amounts of \$5,000 and more must have a purchase order prior to the purchase being made or the services being rendered. All purchases require a written (electronic or printed) document (invoice, quote, proposal, etc.) with sale details prior to payment being made.

3.3 Purchases & Services

Less than \$5,000

Department heads shall authorize services or purchases of apparatus, supplies, materials or equipment up to \$4,999.99 without a purchase order if sufficient funds are budgeted and available within the department budget. Prior to the purchase, departments must ensure there is an appropriation authorizing the obligation and that sufficient funds will remain in the appropriation to pay the amounts that are expected to come due in the fiscal year in which the obligation is incurred.

\$5,000 – \$29,999.99

Department heads shall solicit proposals for services or purchases of apparatus, supplies, materials or equipment when the estimated cost is between \$5,000 - \$29,999.99. County Purchasing will review the purchase upon receipt of requisition to ensure compliance with County policies. County Purchasing may solicit additional proposals as determined necessary and appropriate by the Finance Director.

3.4 Purchases of apparatus, supplies, materials, or equipment

\$30,000 – \$89,999.99

Informal bids are required for any purchase of apparatus, supplies, materials, or equipment that requires an expenditure of \$30,000 - \$89,999.99. Departments shall submit specifications to County Purchasing for purchases in this category. Exemptions: purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e).

\$90,000 and Above

Formal bids are required for any purchase of apparatus, supplies, materials, or equipment in amounts of \$90,000 or more. Departments shall submit specifications to County Purchasing for purchases in this category. The County Manager must approve bid awards in amounts between \$90,000 - \$99,999.99. The Board of Commissioners must approve bid awards in amounts of \$100,000 or greater. Bids for engineering and construction must comply with North Carolina General Statutes. Exemptions: purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e).

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Bid award is not a substitution for receiving contract approval in accordance with the dollar thresholds established within this policy or as further delegated by the Board of Commissioners.

3.5 Purchase of Services

\$30,000 and Above

An Informal RFP process is required for services estimated to cost \$30,000 or more. County Purchasing will review the proposal upon receipt of requisition to ensure compliance with county policies. County Purchasing may solicit additional proposals as determined necessary and appropriate by the Finance Director.

3.6 Procurement Cards

The procurement card program was established to provide a more rapid turnaround of requisitions for low dollar value goods, and to reduce paperwork and handling costs. Procurement cardholders may initiate transactions in person, or by telephone, within the established limits of these procedures. Department heads may designate individuals to receive procurement cards. Prior to signing for a procurement card and annually thereafter, procurement cardholders must attend a class conducted by County Purchasing addressing the guidelines involved in the responsibility associated with the card. To ensure pre-audit requirement compliance, funds for each department's estimated procurement card charges shall be encumbered at the beginning of each fiscal year.

3.7 Contracts

A contract is an agreement stating the obligations and benefits arising out of a transaction between the County and at least one other party. A contract must be signed by the County and all other parties to the contract. The contract, in its final form, requires review for legal sufficiency approval **prior to** consideration for approval/signature. All contracts for expenditures, in amounts of \$50,000 or more require County Manager signature. Contracts **resulting from a formal bid process** for expenditures in amounts of \$100,000 or more require the Chair to the Board of Commissioners signature, after Board approval. Contracts with a total amount less than \$50,000 may be signed by the Department head.

These signature requirements pertain to all contracts in which the county is obligated to expend funds of \$5,000 and above, even if the funds have been approved by the Board of Commissioners in the original budget. Digital signatures by vendors or non-County personnel are permitted on contracts when there is legal authentication attached to the signatures and when the digital signature system being utilized provides system integrity in the process to ensure the signed document has not been altered in transit. Digital signatures by County personnel will be permitted pursuant to a system and/or process approved by the County Manager.

The Board of Commissioners must approve all interlocal agreements, regardless of the dollar amount. The action approving the agreement must be recorded within the minutes of the Board of Commissioners' meeting.

If an amendment to the original contract occurs, an equivalent position to the original contract signor must also sign the amendment, regardless of the original contract dollar amount or method of award.

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). See the Addendum following section 4.0 of this policy for the Uniform Guidance Procurement Policy.

3.8 Federal and State Law Compliance

Federal law and North Carolina general statutes allow local policy to be more restrictive. When comparing federal, state, and local procurement requirements to implement federal programs or grants, the most restrictive requirement shall be applied. This policy is more restrictive regarding

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bid requirements of services and dollar thresholds for contractual signatures in comparison to state statute requirements. Periodically, legislation results in changes to law and/or general statutes. The General Statutes referenced in this policy are incorporated by reference, and changes in the referenced General Statutes are also incorporated herein as if set out in full.

4.0 IMPLEMENTATION

The Finance Director is responsible for implementing and enforcing this Policy and to interpret it consistent with its spirit and intent, fiscal prudence and accountability. The Finance Director is authorized to prescribe additional administrative instructions for implementing the above policy.

ADDENDUM Uniform Guidance Procurement Policy for North Carolina Local Governments

I. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

II. Policy

A. Application of Policy. This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

B. Compliance with Federal Law. All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Cumberland County will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

C. Contract Award. All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.

D. No Evasion. No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

E. Contract Requirements. All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

F. Contractors' Conflict of Interest. Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

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G. Approval and Modification. The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

III. General Procurement Standards and Procedures:

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for Minority/Women Business Enterprises (M/WBE) Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to

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unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** except for Architectural/Engineering (A/E) professional services and **Purchase Contracts costing less than \$30,000** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
 - 1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 - 2. To the extent practicable, purchases must be distributed among qualified suppliers.
 - 3. The \$30,000 threshold for "micro-purchase" is allowed as long as the County qualifies as a low-risk auditee, in accordance with the criteria in §200.520 according to the most recent audit, self-certifies annually, and maintains documentation to be made available to the Federal awarding agency and auditors upon request.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$30,000 up to \$90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
 - 1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 - 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - 3. Cost or price analysis is not required prior to soliciting bids.

4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

C. Service Contracts (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

D. Service Contracts (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

E. Construction and repair contracts costing less than \$30,000 shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.
3. The \$30,000 threshold for “micro-purchase” is allowed as long as the County qualifies as a low-risk auditee, in accordance with the criteria in §200.520 according to the most recent audit, self-certifies annually, and maintains documentation to be made available to the Federal awarding agency and auditors upon request.

F. Construction and repair contracts costing \$30,000 up to \$250,000 shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

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1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. Construction and repair contracts costing \$250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.

8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”

I. Construction or repair contracts involving a building costing \$300,000 and above must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

J. Contracts for Architectural and Engineering Services costing less than \$50,000 shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) when contracting for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the County has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.

The threshold for “micro-purchase” is allowed as long as the County qualifies as a low-risk auditee, in accordance with the criteria in §200.520 according to the most recent audit, self-certifies annually, and maintains documentation to be made available to the Federal awarding agency and auditors upon request.

K. Contracts for Architectural and Engineering Services costing \$50,000 up to \$250,000 shall be procured using the state “Mini-Brooks Act” requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

L. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.

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6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
 - B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
 - C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
 - D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
 - E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.
7. Request for Qualifications (RFQ) for Engineering Services to Assist with NORCRESS Capital Improvements

BACKGROUND

On September 23, 2021, the Public Utilities Division advertised a Request for Qualifications from qualified individuals or firms to provide engineering services for design, contract administration & inspection, and evaluation of the NORCRESS sanitary sewer system. Based on the study that was completed and presented to the Board in June 2021, the firm selected would assist the Public Utilities Division with the recommended capital improvements as a multi-phase project. The immediate needs detailed in the study and funds budgeted for Year 1 in FY22, consist of the following: Wade 2 lift station pump repairs, Falcon Force Main additional testing and inspection, new electrical equipment and generators moved outside of the buildings at all four lift stations, and system-wide inflow & infiltration (I&I) reduction.

Firms had until October 12, 2021, to submit their Statement of Qualifications. There were three firms that responded, Public Utilities Division and Engineering Division staff reviewed the documents and scored them separately. Our scores were then summarized with Freese and Nichols, Inc. having the highest score of the three firms.

RECOMMENDATION / PROPOSED ACTION

At the November 9, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the November 15, 2021 Board of Commissioners Meeting:

1. Accept the selection of Freese and Nichols, Inc. as the preferred choice for Engineering Services for the NORCRESS sanitary sewer system capital improvements.
2. Grant permission to enter negotiations for detailed scope of work, cost of services and prepare contract for approval at a future Board of Commissioners meeting.
8. DSS Elevator Modifications Phase II Bid Award

BACKGROUND

The DSS Elevator Modernization Phase II is the final phase of the FY20 Capital Improvement Project. Phase I consisted of bringing various supplemental components (i.e. shunt trip breakers, back-up power, HVAC in mechanical room, and dedicated GFCI outlets for sump pump) into code compliance before the actual elevator modernization project could be executed.

On September 24, 2020, the County entered into an agreement with Cromwell Architects Engineers Incorporated, for engineer design services for the Department of Social Services Elevator Modernization.

The project was advertised for bid on September 8, 2021, and closed on September 28, 2021, with Abell Elevator having the lowest responsive and responsible bid of \$709,831.37.

RECOMMENDATION / PROPOSED ACTION

At the November 9, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the November 15, 2021 Board of Commissioners Meeting:

1. Accept the selection of Abell Elevators with the lowest responsive and responsible bid.
2. Grant approval of a \$75K contingency with funding being available in the project budget.
3. Delegate authority to the County Manager to approve changes orders not to exceed \$75K aggregate amount.
9. Crown Coliseum Boiler Burner Repairs and Re-Tubing Bid Award

BACKGROUND

This is a combination of two Crown FY22 CIP boiler projects. This increased the County's ability to negotiate a better price instead of having separate contractors performing work on the Crown's boilers. The initial Bid Opening was on August 24, 2021, with only two bids. After that process, it was determined that the project should be bid as construction project as opposed to a repair project. The project was released as a formal bid with the opening on October 5, 2021. Two bids were received with Valley Boilers submitting the lowest responsive and responsible bid.

One boiler is currently inoperable and requires a re-tubing while both need burner upgrades. Both boilers are original to the Crown's opening and this work will add another 7-10 years to the useful life of the system allowing fiscal flexibility for the complete replacement as a future CIP project.

RECOMMENDATION / PROPOSED ACTION

At the November 9, 2021 Agenda Session Meeting, the Board of Commissioners approved placing the proposed action below as a Consent Item on the November 15, 2021 Board of Commissioners Meeting:

1. Accept the selection of Valley Boilers with the lowest responsive and responsible bid.
2. Grant approval of a \$15K contingency with the funding being available in the project budget.
3. Delegate authority to the County Manager to approve changes orders not to exceed \$15K aggregate amount.
10. Request of the Town of Godwin to Relinquish Its Jurisdiction to the County for Minimum Housing Code Enforcement

BACKGROUND

On October 18, 2021, the Town of Godwin Board of Commissioners adopted a formal resolution to subject the jurisdiction of the Town of Godwin to the County's Minimum Housing Code and to request the Board of County Commissioners to accept the jurisdiction of the Town of Godwin for this purpose and apply and enforce the County's Minimum Housing Code within the town's jurisdiction. A copy of the Resolution is attached.

The Town of Godwin and the County have the authority to undertake this transfer of jurisdiction and application of the County's Minimum Housing Code pursuant to N.C.G.S. § 160D-202. The County revised its Minimum Housing Ordinance June 21, 2021. The process by which the County may accept the jurisdiction of a town and apply the County's ordinance requires that both governing boards adopt formal resolutions.

This action requested by the Town of Godwin is what the Board of Commissioner has approved for the Town of Linden.

RECOMMENDATION / PROPOSED ACTION

The Board may accept the jurisdiction of the Town of Godwin for the purpose of applying and enforcing the County's Minimum Housing Code as set forth in Article IV, Chapter 4, Cumberland County Code by adopting the attached County Resolution.

The Board unanimously approved this item at the November 9, 2021 Agenda Session.

Cumberland County Board of Commissioners Resolution to Accept the Jurisdiction of the Town of Godwin for the Application and Enforcement of the County's Minimum Housing Code

Whereas, N.C.G.S. § 160D-202 authorizes a town to relinquish its jurisdiction to a county for the application and enforcement of the county's Minimum Housing Code and authorizes a county to accept such jurisdiction to apply and enforce its Minimum Housing Code; and

Whereas, on October 18, 2021, the Town of Godwin Board of Commissioners adopted a resolution relinquishing its jurisdiction to the County of Cumberland for the purpose of applying and enforcing the County's Minimum Housing Code, being Article IV, Chapter 4, Cumberland County Code, with a copy of the Town's resolution being attached hereto.

Now therefore, be it resolved that the Cumberland County Board of Commissioners do accept the jurisdiction of the Town of Godwin for the application and enforcement of the County's Minimum Housing Code, being Article IV, Chapter 4, Cumberland County Code.

Be it further resolved that the effective date of the application of the County's Minimum Housing Code within the jurisdiction of the Town of Godwin shall be the date the amendment expanding the jurisdiction of the Cumberland County Minimum Housing Code is adopted by the Board of Commissioners after public hearing.

Adopted November 15, 2021.

11. ARP Update - Pandemic Pay

BACKGROUND

Management has been working with the Board's appointed American Rescue Plan Committee (ARP) on a plan to utilize the County's ARP allocation. The treasury guidelines provide guidance on premium pay for employees directly related to administering the vaccine. The ARP Committee asked Management to develop a plan for monetary recognition of employee's efforts during the pandemic.

At the November 9, 2021, Agenda Session, the County Manager provided an ARP update and a recommendation to provide employees with a one-time pandemic payment based upon a three-tier system. Tier I includes a \$3,000 payment for employees who were at a high risk of exposure to COVID-19 due to their assigned duties at COVID testing and vaccination sites. Tier II provides a

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\$2,000 payment for employees who had a COVID-19 exposure risk due to direct customer contact. Tier III includes a \$1,000 payment to any employee who does not qualify for a payment under Tier I or Tier II guidelines.

The Tier I amount was calculated based upon pandemic pay under the Treasure guidelines for services provided from June 2020 through June 2021. To qualify, employees must have been hired by July 1, 2021, and are still employed for the pay period ending November 20, 2021. Part-time employees will receive 50% of the amount designated for their tier. This excludes the three positions that report directly to the Board of Commissioners who are subject to the annual evaluation process as documented by the Chief Human Resources Director.

The County has approximately \$2.4M in freed-up CARES funding. Management recommends utilizing this remaining balance to fund the one-time Pandemic Pay as described above. This one-time payment will be included in the November 24, 2021 regular payroll deposit.

At the November 9, 2021 Agenda Session the Board unanimously agreed to move this item to the November 15, 2021 Consent Agenda.

RECOMMENDATION / PROPOSED ACTION

Approve the one-time payment for Pandemic Pay based upon the three Tier system related to COVID-19 risk exposure.

MOTION: Commissioner Lancaster moved to approve consent agenda Items 3.A. – 3.P.11.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

4. PUBLIC HEARINGS

Contested Rezoning Cases

A. Case ZON-21-0004: Text amendment for Cumberland County Zoning Ordinance, to create a new Section 112; pre-application meetings, mandating and providing direction for pre-application conference meetings prior to land development submittal; County (Applicant).

Mr. Howard stated at the October 18, 2021, Board of Commissioners' meeting, this item was deferred for further staff and legal review and the updated text amendment language has been reviewed and approved by the County Attorney's office. Mr. Howard stated this is a staff-driven text amendment to insert language or create a new Section 112 of the Cumberland County Zoning Ordinance to establish a requisite pre-application conference prior to submittal of zoning, site plan, and subdivision applications, including re-development projects. Mr. Howard stated a pre-application conference creates an opportunity for staff and applicants to discuss the proposed interests of the developer or property owner with relevance to the applicable zoning code and comprehensive plan; a primary benefit of a pre-application conference is to reduce the potential for a case being continued at board meetings or hearings to allow the applicant to address additional information or concerns. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval of the text amendment.

Commissioner Adams stated to add another legal step with a text amendment to the Zoning Ordinance and require people to come in creates confusion and is not reasonable. Commissioner Adams suggested that it rather be a policy of the Planning Board and that the pre-application conference be optional.

Commissioner Keefe posed questions to Stan Crumpler, Chairman of the Joint Planning Board, about the separation of recommendations between Planning staff and the Planning Board, zero-lot line development and residential developments with no available sewer. Commissioner Keefe stated the Board of Commissioners have also received changes in zoning cases after they have been heard by the Planning Board. Mr. Crumpler stated he feels the text amendment will help clean up issues such as these and eliminate some of the confusion.

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Rick Moorefield, County Attorney, stated although he rewrote the language for Section 112 to accommodate Mr. Howard's interest and belief that it would be beneficial, he does not support including language in ordinances that does not have to be in ordinances. Mr. Moorefield stated it is a good idea to have these discussions with applicants, but a pre-application conference can be conducted without an ordinance provision for it. Mr. Moorefield stated his recommendation is for an internal policy as suggested by Commissioner Adams. Mr. Moorefield stated another consideration with inserting this language into the Zoning Ordinance is that it creates another issue which can be used in lawsuits.

Chairman Evans opened the public hearing for Case ZON-21-0004.

The clerk to the board stated there were no speakers for Case ZON-21-0004.

Chairman Evans closed the public hearing for Case ZON-21-0004.

MOTION: Commissioner Adams moved to send Case ZON-21-0004 back to the Planning Board and Planning staff to develop as an internal policy and not a text amendment.
SECOND: Commissioner Bose
VOTE: PASSED (6-1) (Commissioners Council, Keefe, Evans, Adams, Boose and Stewart voted in favor; Commissioner Lancaster voted in opposition)

B. Case ZON-21-0005: Text amendment for Cumberland County Zoning Ordinance; amending section 1501; to include new requirements for neighbor communications summary reports for all conditional zoning request applications for any agricultural or residential district that involves more than 10 acres and proposes an increase in density from what is existing or includes a zero-lot line subdivision; County (applicant).

Mr. Howard at the October 18, 2021 Board of Commissioners' meeting, this item was deferred for further staff and legal review and the updated text amendment language has been reviewed and approved by the County Attorney's office. Mr. Howard stated the amendment to Section 1501, Submission of Amendments and Changes, of the County Zoning Ordinance to require applicants of certain types of conditional use zoning applications to foster communications with neighboring residents and property owners through a meeting or another communication mode. Mr. Howard stated if an applicant does not conduct this activity, then a response must be provided to explain why such communication was not necessary. Mr. Howard stated for those conditional use applications subject to this new requirement, a Neighborhood Communications Summary Report must be submitted prior to the Joint Planning Board meeting; this report prepared by the applicant will provide a summary of the communications with neighbors or alternatively an explanation indicating why communication was not conducted. Mr. Howard stated the Neighbor Communications Summary Report would be required for conditional use zoning applications involving an existing or proposed agricultural or residential district when either, (1) the rezoning involves more than ten acres and proposes an increase in density or, (2) proposes a zero-lot line subdivision. Mr. Howard highlighted items addressed by this text amendment and stated the Neighborhood Communications Summary Report would be provided to the Planning Board and the Board of Commissioners in their meeting packets. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval of the text amendment.

Chairman Evans opened the public hearing for Case ZON-21-0005.

The clerk to the board stated there were no speakers for Case ZON-21-0005.

Chairman Evans closed the public hearing for Case ZON-21-0005.

Commissioner Boose stated his concerns are that some property owners may not be able to talk with neighboring residents and it could also be dangerous to force people to talk with neighboring

residents or property owners. Commissioner Boose stated state law only requires that notice be given and that is what should be documented.

Commissioner Adams asked whether there would be ramifications if a Neighborhood Communications Summary Report was not submitted. Mr. Moorefield stated although there is nothing laid out in the text amendment, it would be a violation of the general ordinance if the report was not submitted. Mr. Howard stated not to submit the report would constitute an incomplete application and the case would be postponed. Commissioner Adams stated it appears as though applicants are being asked to do more than Planning staff do and more than is required by state statute, which does not make sense to him. Commissioner Adams stated Planning staff can do better locally by expanding the area of notice and using larger rezoning signs.

MOTION: Commissioner Adams moved in Case ZON-21-0005 to deny the text amendment to Section 1501 of the Cumberland County Zoning Ordinance.

SECOND: Commissioner Keefe

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

C. Case P21-33: Rezoning from A1 Agricultural District to R15 Residential District/ CZ Conditional Zoning District up to 104 lots zero lot line subdivision on 41.48 +/- acres or more restrictive zoning district; located west of NC 87 Hwy and south of Ola burns Dr; James D. Hubbard and Norma Garcia; Cheri and Marty Lassiter; Tommy J Woodell and Debra H. Woodell; Travis Allen Hubbard and Jill Elizabeth Hubbard; Pamela and Michael Domanski; Michael and Jodi Davis, Christopher Davis, Kristin M. Davis; Boyd D. Parsons Jr. and Mae Smith Parsons (owners).

Mr. Howard stated this case was on the agenda for the September 20, 2021, meeting and the applicant's request at that time was for R7.5 with a 122-lot subdivision. Mr. Howard stated the Board took action to remand the case to the Planning Board at the petitioner's request and it is now being resubmitted as an R15 conditional zoning district with a 104-lot subdivision. 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 noted subdivision activity off the southern part of Sandhill Road and to the north on Tom Starling Road and stated the subject property is sandwiched between areas with residential growth. Mr. Howard stated the request is consistent with the South-Central Land Use Plan designation of low density residential of 2.2 to 6 units per acre with this request at about 2.9 units per acre. Mr. Howard stated public water and sewer are available to the area. Mr. Howard stated Planning and Inspections staff recommended approval and the Planning Board recommended denial.

Chairman Evans opened the public hearing for Case P21-33.

The clerk to the board called the following speakers for Case P21-33:

Donald Curry – Mr. Curry with Curry Engineering appeared as a proponent and deferred his time to Mr. Charleston.

Michael Kaney – Mr. Kaney appeared as a proponent and deferred his time to Mr. Charleston.

There was consensus of the Board for the speakers' requests to defer their time to Mr. Charleston.

Jonathan Charleston – Mr. Charleston appeared as a proponent and counsel for the owners of the subject property and the applicant. Mr. Charleston stated the area has been rural for a long time, Cumberland County is the fifth largest metropolitan area in the state but has the lowest growth, and the subject property is between areas with high subdivision growth that has been approved by the county. Mr. Charleston stated the property owners want the highest and best use of their property that has

come through the family. Mr. Charleston stated the request is consistent with the South-Central Land Use Plan that calls for urban development in this area. Mr. Charleston stated the applicant originally requested 122 lots and has reduced it to 104 lots and has talked with and listened to the neighbors. Mr. Charleston stated the proposed request is for low density residential which is consistent with the South-Central Land Use Plan or guidepost for development, and he would encourage the Board to follow the plan it approved in 2015. Mr. Charleston stated approval of the request is reasonable and in the public interest as the district designation being request will ensure a subdivision plan with recommended conditions. Mr. Charleston stated the land is not located in a watershed area or special flood hazard area as defined by FEMA. Mr. Charleston stated there is no evidence of hydric inclusion soils on the site and the subject property will have no impact on the Transportation Improvement Plan or any traffic patterns. Mr. Charleston stated the owner has voluntarily set forth conditions as contained in materials provided to the Board and highlighted several of the conditions. Mr. Charleston stated from a stormwater perspective, this property is being developed at the highest urban standards to the extent the post development runoff rates will not exceed the 50-year storm event, which means surrounding areas will flood notwithstanding any development in a 50-year flood event. Mr. Charleston stated the NCDOT interactive traffic map shows total annual average daily traffic on NC 87 Hwy. to be 18,000 vehicles a day and 104 single family homes generate a volume of only 9 trips per day, which does not violate any NCDOT thresholds. Mr. Charleston stated to mitigate stormwater runoff to NC 87 Hwy. downstream property owners, this project provides voluntary committed condition that far exceeds the requirements established by the county. Mr. Charleston stated the fundamental principle is that property owners should be allowed to develop their property to its highest and best use provided the proposed use does not have a substantial adverse effect on surrounding property owners. Mr. Charleston stated when property owners desire to develop their property to the highest and best use, they should not be asked to shoulder the burden of everybody else who says that want the property to remain as it is. Mr. Charleston stated on behalf of the property owners and the applicant, he would respectfully request that the Board grant this request.

Josh Matthews – Mr. Matthews appeared as an opponent and stated his background includes 10 years of experience as a soil scientist and permitting for environmental and construction projects. Mr. Matthews stated consideration needs to be given to whether the retention ponds are the right size for the property and whether they are located where water will actually flow because many times developers will locate the ponds where it is most convenient and not where water actually flows which creates flooding issues for the current community and residents. Mr. Matthews also stated consideration needs to be given to current guidance for environmental rules that the developer and engineer are proposing for this project. Mr. Matthews stated storm strength has increased with the 7-year storm having become the 10-year storm and consideration needs to be given to the impact the development will have on the infrastructure of the community. Mr. Matthews stated before NC 87 Hwy. was widened, it used to drain towards the river, but it no longer does because when it was widened, the grade was changed which created issues for the intersection at Tom Starling Road and NC 87 Hwy. Mr. Matthews stated he would ask whether the developer is using the right size and location for open space, drainage ditches and retention ponds and what the current guidance is for building practices and whether they are sufficient. Mr. Matthews stated building should really be at a minimum and based on what will happen in the future.

Donald Matthews – Mr. Matthews appeared as an opponent and stated his background has been in safety and safety management, identifying hazards, risk analysis/assessment and mitigation. Mr. Matthews stated to his acknowledge, none of this has been conducted for this development and as it relates to safety, NCDOT has determined the area from Tom Starling Road to Sandhills Road, with a focus on Tom Starling Road to Smith Road, to be a red zone as far as traffic hazards. Mr.

Matthews stated the proposed project poses a high risk for the community as it relates to travel on NC 87 Hwy. and to get into the community there is only one way in and one way out and will require a 180 degree turn on either Tom Starling Road or Smith Road at which there have been fatal accidents.

Chris Matthews – Ms. Matthews appeared as an opponent and stated at the prior public hearing the engineering company stated they would maintain and be attentive to the retention pond they intended to build. Ms. Matthews stated speaking as a former property manager, it has been her experience that homeowners and boards are not qualified, are not engineers and are not capable of verifying information when the developer is long gone and not established retention ponds as they should have been established when considering changing weather patterns. Ms. Matthews stated Tom Starling Road is not aesthetically pleasing, has no trees or amenities and if there is a buffer, it is because of the trees that are on the Matthew's property. Ms. Matthews stated she does not think the proponents are being truthful and up front because they want the project completed so they can move on to another development.

Ethel McKeller – Ms. McKeller appeared as an opponent and stated her family has lived in the area for over 60 years, there have been drainage problem in their front yard when it rains for those 60 years and because their house sits directly in front of the proposed development, her concern is that water will back up on her family's property. Ms. McKeller stated there is already an issue with traffic involving Ola Burns Drive and NC 87 Hwy. and any added development will only make it worse. Ms. McKeller stated there is already enough development in the area.

Jim MacRae – Mr. MacRae appeared as an opponent and stated he has lived in the area for 30 years; the Board of Commissioners are the gatekeepers of the community; and residents rely on them to make good decisions as it relates to growth of the existing community. Mr. MacRae stated the proposed development is too dense, will cause traffic and water and infrastructure problems. Mr. MacRae stated he was involved with the 2030 plan, and this was never contemplated with zero lot line and 15,000 SF lots.

Chairman Evans closed the public hearing for Case P21-33.

Commissioner Keefe stated with the request for R15 conditional zoning, the applicant is going right back to the original request for R7.5; the applicant is reducing the lot size that has to be one unit per 15,000 SF under R15 with conditional zoning so it goes back to 7,391 SF; and the applicant is reducing the required 15 foot setback for R15 with conditional zoning and only requiring 5 feet. Commissioner Keefe stated this is a zero-lot line subdivision in a rural area which is not the intent of or appropriate for this rural setting. Commissioner Keefe stated it concerns him that the applicant is attempting to pass this project off under the cloak of R15 with conditional zoning. Mr. Howard stated there are concessions being made with regard to setbacks and area for the lots. Mr. Howard stated the proposal is to keep the front and rear setbacks at 30 and 35 feet respectively with 5 feet side setbacks and reduce the lot size to around 7,400 SF. Mr. Howard stated the density would remain the same and the lots would be smaller, but the number of lots allowable on the site would remain at R15 standards.

Commissioner Boose asked whether Planning staff recommended the original request of R7.5. Mr. Howard responded in the affirmative and stated it met the land use plan requirements for the size lots. In response to a question from Commissioner Boose, Mr. Howard stated there is a mix and combination of zonings going down Tom Starling Road.

Commissioner Adams asked whether Pennystone Drive was located off of Tom Starling Road. Ms. Cannon stated it is further down. Commissioner Adams referenced the materials provided and language regarding possible wetlands and stated the applicant cannot build on wetlands so the subdivision plan may need to be reconfigured. Mr. Howard stated wetlands cannot be built on without special permits. Commissioner Adams stated there is a problem with rain and water in the area of Tom Starling Road and NC 87 Hwy. Tracy Jackson, Assistant County Manager, stated

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at the intersection of Tom Starling Road and NC 7 Hwy. there is a gas station and there was flooding due to Hurricane Matthew with probably 6 to 10 inches of water in the yards of property owners just behind the gas station.

MOTION: Commissioner Keefe moved in Case P21-33 to deny the rezoning request from A1 Agricultural District to R15 Residential District/Conditional Zoning for a Zero Lot Line Subdivision up to 104 lots and find that the request is not consistent with the South-Central Land Use Plan designation of “Low Density Residential”, and denial of the request is reasonable and in the public interest due to concerns of traffic and drainage and many other things.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (7-0)

D. Case ZON-21-0011: Rezoning from R6A Residential District to C(P) Planned Commercial District on 0.47 +/- acres or to a more restrictive zoning district; located at 3404 Cumberland Road; submitted by Kodjo Kouassi (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 request is consistent with the Southwest Cumberland Land Use Plan and PWC water is available adjacent to the subject site but a sewer utility line is not. Mr. Howard stated the intent is to establish motor vehicles sales as a primary use and a towing company as an incidental use; a towing service currently exists on the property and the applicant wants to purchase the property behind his to expand his business. Mr. Howard stated Planning and Inspections staff and the Planning Board recommended approval of the rezoning request.

Chairman Evans opened the public hearing for Case ZON-21-0011.

The clerk to the board called the following speakers for Case ZON-21-0011:

Kodjo Kouassi – Mr. Kouassi appeared as a proponent and stated he had a taxi business previously and it did not go well, and he wants to expand his towing service on the property.

Peter LaPreta – Mr. LaPreta appeared as a proponent and stated he passes the subject property daily and he has noticed a big improvement because it is cleaner, has fencing and is well lit at night with security cameras. Mr. LaPreta stated Mr. Kouassi’s business employs several people in the community, and he is hoping to put more people to work.

Herbert Townes – Mr. Townes appeared as a proponent and stated Mr. Kouassi is a client of his, came to him when he wanted to purchase the property and has met all the required insurance standards for his business. Mr. Townes stated Mr. Kouassi has significantly improved and renovated the property and he supports his entrepreneurial efforts.

Chairman Evans closed the public hearing for Case ZON-21-0011.

Commissioner Adams asked how big the parcel will be once the two properties are combined because once it is rezoned, it can be used for anything allowable under the zoning designation. Mr. Howard stated the existing tract is just under a half-acre at .47 and will be about .75 to .8 acres.

MOTION: Commissioner Council moved in Case ZON-21-0011 to approve the rezoning request from R6A Residential District to C(P) Planned Commercial District and find that the request is consistent with the Southwest Cumberland Land Use Plan which calls for Heavy Commercial at this location. Approval of the request is

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reasonable and in the public interest because the C(P) Planned Commercial District would allow commercial development in harmony with the scale, size, appearance, and accessibility of the surrounding land use activities and zoning.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (7-0)

E. Case ZON-21-0014: Rezoning from A1 Agricultural District to R20 Residential District on 3.35 +/- acres or to a more restrictive zoning district; located at 3972 Sanderosa Road; submitted by Anthony Grant (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 request is consistent with the Eastover Land Use Plan and Eastover Sanitary District water utility lines are located at the front of the property and the nearest sewer line is approximately 2,500 feet to the east; septic will serve the property unless sewer lines are extended. Mr. Howard stated the applicant wants to build a duplex on the property. Mr. Howard stated Planning and Inspections staff recommended approval and the Planning Board recommended denial of the rezoning request by an 8-0 vote.

Chairman Evans opened the public hearing for Case ZON-21-0014.

The clerk to the board called the following speakers for Case ZON-21-0014:

Anthony Grant – Mr. Grant appeared as a proponent and stated the property has been in his family for over 50 years, and when he was asked by a member of the Planning Board how many homes he wanted to build, he responded his intent was to build no more than 3 homes but is not opposed to building a duplex. Mr. Grant stated he was then asked by a member of the Planning Board whether he would accept R40 zoning, and he accepted R40 zoning. Mr. Grant stated he was later asked if he would accept R40 zoning with the condition that he would only build single family homes and he did not accept that. Mr. Grant stated no one wanted duplexes built on the property. Mr. Grant stated under the current designation of A1, he can build 1 duplex on the property. Mr. Grant stated he will still accept R40.

Janet Leonard – Ms. Leonard appeared as an opponent and stated she was speaking on behalf of her family and the community who do not agree with duplexes or multifamily housing on the property. Ms. Leonard stated she has lived in the area her entire life and the goal is to keep the area as a rural setting with low or sparse density, and R20, a duplex or multifamily, is not a like-in-kind to the surrounding properties. Ms. Leonard stated infrastructure in the area will not support an influx of people, it will place a greater burden on first responders and it will cause additional issues with the school districts. Ms. Leonard stated this area is rural under the current Eastover Land Use Plan and residents wish it to remain rural and zoned for only single-family homes.

Chastidy Rice – Ms. Rice appeared as an opponent and stated this area is a community of families that surrounds each other for love, support, safety and comfort. Ms. Rice stated the community wants to keep its little bit of country and protect the wildlife inhabitants who really have nowhere to go. Ms. Rice stated when developers are gone, they leave the existing community to deal with the aftermath.

Chairman Evans closed the public hearing for Case ZON-21-0014.

Commissioner Keefe asked whether a duplex would be allowed under A1. Mr. Howard stated one can do pretty much multifamily or single family across all zoning districts, but it is really geared by how much space one has. Commissioner Keefe asked about a resident who wants to put a

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separate residence on their property. Mr. Howard stated it would be treated as a group development and a site plan review would determine what could be placed on the property. Commissioner Keefe asked whether a multifamily could be placed on the subject property under A1. David Moon, Deputy Planning Director, stated the subject property is 3.35 acres and would require 3.51 acres to have a duplex, so it is just short the acreage required. Mr. Howard stated one unit can currently be placed on the subject property.

MOTION: Commissioner Stewart moved in Case ZON-21-0014 to deny the rezoning request from A1 Agricultural District to R20 Residential District and find the request is not consistent with the Eastover Land Use Plan which calls for Rural Density Residential at this location, and denial of the request is reasonable and in the public interest because the requested district is not compatible with the character of the surrounding area.

DISCUSSION: Commissioner Adams stated R40A is not far from the subject property and the petitioner is stating he would be willing to do R40 which then changes it from R20 to R40. Commissioner Adams stated R40 would be reasonable and falls within the Land Use Plan for the area.

Chairman Evans asked Commissioner Stewart whether she wished to restate her motion to which she responded in the negative.

SECOND: Commissioner Boose

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

5. ITEMS OF BUSINESS

A. Consideration of New Vault Doorway for Register of Deeds and Bid Results

BACKGROUND

On June 21, 2021, the Board of Commissioners approved the Budget Ordinance Amendment #B210338 for \$50K. The budget ordinance amendment was a shared cost to fund the construction of a vault doorway for the Register of Deeds. The doorway would provide a secondary egress and allow public and attorney access to the records vault without having to utilize the main Register of Deeds entrance.

Guidance from the Board was to move forward with planning and design with 50% of total project costs to be funded from the County's CIP fund not to exceed \$50K.

Originally, the project bid period opened on October 4, 2021 and closed on October 14, 2021 with submission of one bid which was later disqualified. The project was re-bid on October 22, 2021 and closed on October 29, 2021 with M&E Construction submitting the only bid for this project.

The planning and design costs are \$12K and the overall project costs are \$125,028. In complying with the original guidance from the Board, the project now has a shortfall of \$37,028.00.

The motion for this item did not pass unanimously, so the item is being presented under the heading of Items of Business.

RECOMMENDATION / PROPOSED ACTION

This item was heard at the November 9, 2021, Board of Commissioners' Agenda Session and the following motion passed 4 to 1: Move forward with the project by increasing the not-to-exceed amount by \$37,028 with the provision that if ARP funding is allowed under COVID-19 building modifications and the location being in a qualified census tract, then use ARP funding as opposed to CIF funding.

Jermaine Walker, County Engineer, presented the background information recorded above. Mr. Walker stated since the November 9, 2021, Agenda Session meeting, the contractor was asked to re-evaluate the reverse work schedule because most of the cost was due to having to work at night so as not to disturb the courts and the contractor was also asked to rescope the terrazzo floor. Mr. Walker stated a revised bid is expected to be received by the end of the week and the hope is to reduce the overall project costs from \$125,028 to around \$90,000.

Questions and discussion followed. Commissioner Council stated for reasons of health and for traffic purposes, she did not think \$37,028 was too much. Commissioner Adams stated during the Agenda Session meeting he suggested the possibility of using ARP funding as opposed to CIF funding because the location is in a qualified census tract. Mr. Moorefield stated staff are looking into the use of ARP funds for this project. Commissioner Boose asked whether a budget of \$100,000 would be enough to get the project moving. Mr. Walker stated it would be enough, especially with foregoing the terrazzo floors.

MOTION: Commissioner Boose moved to approve the door and a building fund up to \$100,000 at this point.

SECOND: Commissioner Adams

DISCUSSION: Chairman Evans stated he hope conditions at the Historic Courthouse could be revisited soon. Commissioner Keefe stated the \$3M dedicated to the Historic Courthouse has been placed on hold following Commissioner Stewart's insight into needed renovations and is pending a comprehensive assessment of the Historic Courthouse. Mr. Walker stated the kick-off meeting was held last week and once the data is compiled, the assessment will be brought to the Board.

VOTE: UNANIMOUS (7-0)

6. NOMINATIONS

A. Cumberland County Workforce Development Board (3 Vacancies)

Commissioner Adams offered the following nominations:

Representative Education/Training

Dr. Yasmine Fairley

Representative of Business

Mark Wilderman

Representative of Workforce

James Carl Manning

B. Joint Fort Bragg & Cumberland County Food Policy Council (5 Vacancies)

Commissioner Adams offered the following nominations:

Member Involved in Local Farming and Agriculture position

Nathan Crew

Members Who Work in the Field of Healthcare, Public Health, Food Insecurity/Food Access or Child and Adult Care positions

Yahaira Nadermann

Candace Scott

Co-Chair/Civilian Chair from Cumberland County position

Sandy Ammons

Member Who Does Not Work in Local Government or Health Agencies position

Dr. Anicca Cox

C. Cumberland County Juvenile Crime Prevention Council (1 Vacancy)

Commissioner Adams offered the following nomination:

At-Large Representative
Terrasine Gardner

7. APPOINTMENTS

There were no appointments.

Chairman Evans recessed the Board of Commissioners' meeting.

Chairman Evans convened the meeting of the NORCRESS Water and Sewer District Governing Board.

8. NORCRESS WATER AND SEWER CONSENT AGENDA

- A. Approval of Minutes of the August 17, 2020 and the April 19, 2021 NORCRESS Water & Sewer District Governing Board Meetings
- B. Approval of Request for Qualifications (RFQ) for Engineering Services to assist with NORCRESS Capital Improvements

BACKGROUND

On September 23, 2021, the Public Utilities Division advertised a Request for Qualifications from qualified individuals or firms to provide engineering services for design, contract administration & inspection, and evaluation of the NORCRESS sanitary sewer system. Based on the study that was completed and presented to the Board in June 2021, the firm selected would assist the Public Utilities Division with the recommended capital improvements as a multi-phase project. The immediate needs detailed in the study and funds budgeted for Year 1 in FY22, consist of the following: Wade 2 lift station pump repairs, Falcon Force Main additional testing and inspection, new electrical equipment and generators moved outside of the buildings at all four lift stations, and system-wide inflow & infiltration (I&I) reduction.

Firms had until October 12, 2021, to submit their Statement of Qualifications. There were three firms that responded, Public Utilities Division and Engineering Division staff reviewed the documents and scored them separately. Our scores were then summarized with Freese and Nichols, Inc. having the highest score of the three firms.

RECOMMENDATION / PROPOSED ACTION

At the November 9, 2021, Board of Commissioners' Agenda Session Meeting, the Public Utilities Division and County Management recommended that the following proposed actions below be placed on the November 15, 2021, Board of Commissioners agenda and the NORCRESS Governing Board agenda as consent items:

- 1. Accept the selection of Freese and Nichols, Inc. as the preferred choice for Engineering Services for the NORCRESS sanitary sewer system capital improvements.
- 2. Grant permission to enter negotiations for detailed scope of work, cost of services and prepare contract for approval at a future Board of Commissioners meeting.

MOTION: Commissioner Boose moved to approve NORCRESS Water and Sewer District consent agenda Items 8.A. and 8.B.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

Chairman Evans adjourned the meeting of the NORCRESS Water and Sewer District Governing Board.

Chairman Evans reconvened the meeting of the Board of Commissioners.

9. CLOSED SESSION

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There was no closed session.

MOTION: Commissioner Council moved to adjourn.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 9:00 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board