

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, APRIL 18, 2022 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR MEETING MINUTES

PRESENT: Commissioner Glenn Adams, Chairman
Commissioner Toni Stewart, Vice Chairman
Commissioner Jeannette Council
Commissioner Charles Evans (remote intermittent connectivity by telephone)
Commissioner Jimmy Keefe (arrived at 7:15 p.m.)
Commissioner Larry Lancaster
Amy Cannon, County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Brian Haney, Assistant County manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Daniel Rister, ITS Deputy Director
Tye Vaught, Management Analyst
David Moon, Deputy Planning and Inspections Director
Candice H. White, Clerk to the Board
Andrea Tebbe, Deputy Clerk

ABSENT: Commissioner Michael Boose

Chairman Adams called the meeting to order, and stated Commissioner Evans would be attending the meeting remotely by telephone. Commissioner Evan's connectivity could not be confirmed.

INVOCATION / PLEDGE OF ALLEGIANCE

Vice Chairwoman Toni Stewart provided the invocation followed by the Pledge of Allegiance to the American flag.

Fayetteville-Cumberland Youth Council Members

Ramie Mack- 11th Grade -Seventy First High School
Jaedyn Daniels-12th Grade- Cross Creek Early College High School

The Fayetteville-Cumberland Youth Council Members were unable to be present.

Introduction of Brian Haney, Assistant County Manager

Amy Cannon, County Manager, introduced Brian Haney as the new Assistant County Manager for General Government and Stewardship. Ms. Cannon stated Mr. Haney has been an Assistant County Manager for Harnett County since 2017 and worked three years as Harnett's first Community and Government Relations Director. Ms. Cannon stated Mr. Haney holds a bachelor's degree in English from Duke University and a master's degree in Public Administration from the University of North Carolina at Chapel Hill. Ms. Cannon stated Mr. Haney is a member of the International City/County Management Association. Mr. Haney stated he looks forward to working with county staff and the Board of Commissioners.

PUBLIC COMMENT PERIOD

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

Robin Bridges – Ms. Bridges referenced a former rezoning case along Wade Stedman Road and concerns expressed during the public hearing about flooding and runoff/erosion. Ms. Bridges stated the sedimentation and pollution control requirements have not been met, the builder is in violation of regulations for the

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

same and is actually building homes outside of the approved 5.83 acres. Ms. Bridges asked that the violations be remedied before further approvals are granted.

1. APPROVAL OF AGENDA

MOTION: Commissioner Lancaster moved to approve the agenda.

SECOND: Commissioner Council

VOTE: UNANIMOUS (4-0) (Commissioner Evans was not connected.)

2. PRESENTATIONS

A. E.E. Smith Sports Hall of Fame

BACKGROUND

Mr. LaVar C. Wright will present information about the newly created E.E. Smith High School Sports Hall of Fame. The induction gala will be held on May 29 as part of the 2022 E.E. Smith Annual Memorial Day Reunion Weekend.

RECOMMENDATION / PROPOSED ACTION

For information purposes only.

Chairman Adams welcomed Mr. LaVar C. Wright who stated he was present asking for support, not money. Mr. Wright provided a brief presentation on the E.E. Smith High School Sports Hall of Fame. Mr. Wright stated the Hall of Fame recognizes and honors former E.E. Smith athletes, coaches, teams and sport contributors for their significant achievement and other commitments to the athletic program at E.E. Smith High School. Mr. Wright named some of the coaches and players that will be inducted into the newly created Hall of Fame and stated the culminating event will be “The First Hall of Fame Induction Gala Banquet” on May 29, 2022 as part of the 2022 E.E. Smith Annual Memorial Day Reunion Weekend.

3. CONSENT AGENDA

A. Approval of April 4, 2022 Regular Meeting Minutes

B. Proclamation for Fayetteville Cumberland Reentry Council Second Chance Month

BACKGROUND

A request was received for a proclamation recognizing Fayetteville Cumberland Reentry Council Second Chance Month.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, the vast majority of the more than 37,000 people currently serving sentences in North Carolina prisons and jails will transition into communities throughout the state. These formerly incarcerated individuals will become part of a population of more than 1.5 million North Carolinians with criminal records; AND

WHEREAS, helping people with criminal records become productive members of society benefits their families and communities in many ways, including improving safety and preventing and reducing crime; AND

WHEREAS, formerly incarcerated individuals face numerous challenges that include finding work, housing, health care, and transportation, and these challenges may lead to recidivism, health, social, and security concerns; AND

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

WHEREAS, the North Carolina Department of Public Safety has developed the North Carolina Reentry Action Plan to facilitate a better transition for people from incarceration or community supervision back into society by coordinating existing resources, identifying resource gaps, and advocating on behalf of individuals with criminal records; AND

WHEREAS, in 2017, the North Carolina General Assembly established the State Reentry Council Collaborative to be chaired by the Secretary of the Department of Public Safety. The Council included representation from government, education, faith- and community-based organizations and those formerly incarcerated; AND

WHEREAS, North Carolina's 14 local reentry councils work to decrease the stigma by raising public awareness of the issues and challenges faced by formerly incarcerated individuals; AND

WHEREAS, Jessie Garner serves as the Executive Director of the Fayetteville Cumberland Reentry Council and connects justice-involved individuals with resources and services important to successful reentry.

NOW, THEREFORE, We, the Board of Commissioners of Cumberland County, North Carolina, do hereby recognize April 2022 as Fayetteville Cumberland Reentry Council National Second Chance Month and commend its observance to all citizens.

Adopted the 18th day of April 2022.

C. Affidavit of Publication for Road Closing

BACKGROUND

The attached Publisher's Affidavit for the publication of the notice of the public hearing conducted March 21, 2022, to receive comments on the closing of H. Geddie Street and E. Holmes St. was not available at time of the public hearing. It is presented at this time to be recorded in the minutes as a permanent record as reflected in the March 21, 2022, minutes.

RECOMMENDATION / PROPOSED ACTION

No action is necessary. The purpose of this item is just to record the affidavit in the minutes.

D. Approval of Budget Ordinance Amendments for the April 18, 2022 Board of Commissioners' Agenda

BACKGROUND

Intergovernmental Fund 201

- 1) Excise Tax on Deeds– Budget Ordinance Amendment B220191 to budget additional projected revenue in the amount of \$1,049,088

The Board is requested to approve Budget Ordinance Amendment B220191 to budget additional projected revenue in the amount of \$1,049,088 representing the excise tax on deeds. This projection is through the remainder of Fiscal Year 2022.

Please note this amendment requires no additional county funds.

Juvenile Crime Prevention Fund 245

- 2) Juvenile Crime Prevention Council – Budget Ordinance Amendment B220301 to recognize additional funds as approved by the North Carolina Department of Public Safety, Division of Juvenile Justice in the amount of \$46,699

The Board is requested to approve Budget Ordinance Amendment B220301 to recognize additional funds as approved by the North Carolina Department of Public Safety, Division of Juvenile Justice in the FY22 Budget in the amount of \$46,699. JCP Families and Courts Together (FACT) will receive \$40,110, JCP Dispute Resolution Center will receive \$4,182, and JCP Serving with Accountability and Teamwork (SWAT) Youth and Family Services will receive \$2,407.

Please note this amendment requires no additional county funds.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

General Fund 101 and Capital Investment Fund 107

3) General Government Other and Capital Investment Fund – Budget Ordinance Amendment B220324 to appropriate \$35,000 of general fund balance for generators for Inclement Weather Shelters

The Board is requested to approve Budget Ordinance Amendment B220324 to appropriate \$35,000 of general fund balance for generators for Inclement Weather Shelters. These funds will be used for a feasibility study for installation of stand-by generators at seven existing Cumberland County High Schools.

Please note this amendment requires appropriation of general fund balance.

REGARDING THE FOLLOWING ITEM #4 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 amendment seeks to bring those funds forward from FY 2021 into the current fiscal year, allowing departments to complete and pay for these projects and items. These revisions are not using 'new' funds but are recognizing the use of FY 2021 funds in FY 2022.

General Fund 101

4) Social Services - Budget Ordinance Amendment B220356 to bring FY 2021 funds forward in the amount of \$88,745 from the Department of Health and Human Services Adoption Promotion Program

The Board is requested to approve Budget Ordinance Amendment B220356 to re-appropriate Department of Health and Human Services Adoption Promotion Program funds in the amount of \$88,745.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

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

1. Request from the Town of Hope Mills for Cost Sharing of a Sewer Line Serving the Hope Mills Library

BACKGROUND

The Town of Hope Mills began a project last Spring to construct a new Public Safety Center on its current Town Administration campus. While capping an old sewer line to the existing fire station, it was discovered that the line was also connected to the Hope Mills Library Branch. This line is obsolete, experiences frequent maintenance issues, and needs to be replaced.

Attached to this memo is a letter from the Town of Hope Mills requesting that the County participate in a cost share for the replacement of the sewer line. The total estimated cost for the line is \$61,321. The Town is proposing a 50/50 split with the County's portion being \$30,660.50.

County staff has explored other alternatives. The only other viable option is to run a separate sewer line under Golfview Road and connect to the PWC sewer on that side of the Town's campus. This option is more expensive since it requires the additional cost of installing a sewer lift station.

Also attached is an aerial map showing the proposed placement of the sewer line on the Town's campus.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022 Agenda Session and the following action was approved to move forward as a consent agenda item at the April 18, 2022 Board of Commissioners' Meeting.

Approve \$30,660.50 to share in the cost to replace a sewer line serving the Hope Mills Library.

2. Adjustment to the ABC General Manager's Salary

BACKGROUND

At the June 10, 2021 Agenda Session meeting, the Board of Commissioners considered a request from the Cumberland County ABC Board to increase the salary of its General Manager, David Horne. Action on the request at the Agenda Session meeting failed by a vote of 3 to 3 and according to the Rules of Procedure adopted by the Board of Commissioners, it did not move forward.

Chairman Adams requested that the Board of Commissioners consider an adjustment to the ABC Manager's salary at the April 14, 2020 Agenda Session meeting.

RECOMMENDATION / PROPOSED ACTION

At the April 14, 2022 Agenda Session meeting, the Board of Commissioners approved forwarding the recommended action below to the Board of Commissioners' April 18, 2022 agenda:

Approve a salary range of \$150,000 to \$170,000 for the Cumberland County ABC General Manager and increase the current stipend of the ABC Board by an additional \$100.

3. Resolution for Funding Assistance for Cumberland County Solid Waste Projects

BACKGROUND

Cumberland County Solid Waste has identified three projects that may be eligible for funding through the North Carolina Department of Environmental Quality's Division of Water Infrastructure (DWI) funding programs. These programs provide funding for a variety of wastewater treatment facilities, stormwater treatment, and projects associated with estuary and nonpoint source programs. There are two funding rounds, one in the spring and one in the fall of each year. This program will be the vehicle for applying for American Rescue Plan Act (ARPA) and Infrastructure Investment and Jobs Act (IIJA) funds in the state. There may be opportunities for ARPA funded grants and principal forgiveness. The three potential projects that are eligible for these programs include:

Stormwater Ponds No. 2 and No. 3 Improvements

Landfill Leachate PFAS Removal

Landfill Gas Collection and Treatment Improvements

Applications are due on May 2, 2022 for the spring funding round. A resolution by the local government is required as part of the application for funding assistance through DWI.

This item was presented at the April 14, 2022 Agenda Session and the following action was moved to the April 18, 2022 Board of Commissioners' Meeting as a Consent Agenda Item:

Adopt the attached resolution for funding under the Clean Water State Revolving Fund.

RESOLUTION BY THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction and studies of landfill wastewater (leachate) treatment works, stormwater treatment, and a "green" project, and

WHEREAS, Cumberland County has need for and intends to construct or conduct a study on three separate projects for landfill wastewater (leachate) treatment, stormwater treatment, and a "green" project described as

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

- Removal of PFAS compounds from landfill leachate through froth flotation,
- Implement improvements to landfill stormwater ponds to reduce the concentrations of total suspended solids, ammonia and TKN in the discharge, and
- Construct improvements to the landfill gas collection and treatment system to improve its efficiency in processing and transmitting the gas for beneficial use as a source of fuel, and

WHEREAS, Cumberland County intends to request State loan and/or grant assistance for the projects,

NOW THEREFORE BE IT RESOLVED, BY THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS:

That Cumberland County, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of Cumberland County to make scheduled repayment of the loan, to withhold from Cumberland County any State funds that would otherwise be distributed to Cumberland County in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Amy Cannon, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the ____ day of ____, 2022 at Fayetteville, North Carolina.

4. Resolution for The Northern Cumberland Regional Sanitary Water and Sewer District (NORCRESS) Grant Application

BACKGROUND

The Cumberland County Engineering and Infrastructure and Public Utilities Departments are applying for the Viable Utility Reserve Grant. This Grant is for water and wastewater systems that have been designated as distressed by the State Water Infrastructure Authority and the Local Government Commission, for the purposes set forth in subdivisions (1) through (5) of G.S. 159G-32(d).

In order to apply for the grant, the County must adopt a resolution authorizing the water sewer project and the filing of the grant application with the State of North Carolina.

The maximum single award is up to \$15M and the date to apply is May 2, 2022.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022, Board of Commissioners' Agenda Session and brought forward as a Consent Agenda Item.

Staff recommends the Board of Commissioners adopt the attached resolution allowing the department to move forward with the application for funding.

**STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND**

**AUTHORIZING RESOLUTION
WATER AND WASTE WATER
PROJECTS**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater system improvements, and

WHEREAS, The NORCRESS Water & Sewer District has need for and intends to make improvements to its wastewater system project described as:

This project is to provide needed repairs to the sewer system and lift stations based off the comprehensive sewer evaluation conducted on the system. The repairs needed are to get the system operating at the original design standards and to prevent the operational issues of a long, low flow force main that has gas binding and sludge accumulation, which is causing inefficiencies with the pumps at the lift stations.

WHEREAS, The NORCRESS Water & Sewer District intends to request state loan and/or grant assistance for the projects,

**NOW THEREFORE BE IT RESOLVED, BY THE GOVERNING BOARD OF THE
NORCRESS WATER AND SEWER DISTRICT:**

That the NORCRESS Water & Sewer District, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the NORCRESS Water & Sewer District to make scheduled repayment of the loan, to withhold from the NORCRESS Water & Sewer District any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide, or contract for, the efficient operation and maintenance of the project upon completion of construction thereof.

That Amy H. Cannon, County Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the construction of the projects described above.

That the Authorized **Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

Adopted at a meeting of the Governing Board of the NORCRESS Water and Sewer District held on the 18th day of April 2022 in the Commissioners Meeting Room, Room 118, Judge E. Maurice Braswell Cumberland County Courthouse, 117 Dick Street, in Fayetteville, North Carolina.

5. Resolution for Gray's Creek Water Sewer District Grant Application

BACKGROUND

The Cumberland County Engineering and Infrastructure and Public Utilities Departments are applying for the \$15M Drinking Water Reserve and Wastewater Reserve (State Reserves) Grant. This Grant is for:

1. Project construction grants for public water systems and wastewater systems NC DEQ categorizes as at- risk of becoming distressed.
2. Project construction grants for public water systems and wastewater systems not designated as distressed or categorized as at-risk.
3. Grants for asset inventory and assessments, rate studies, merger/regionalization feasibility, training, and planning grants to conduct project engineering, design, or other preconstruction activities.

In order to apply for the grant, the County must adopt a resolution authorizing the water sewer project and the filing of the grant application with the State of North Carolina.

The dates to apply are May 2 and September 2, 2022.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022, Board of Commissioners' Agenda Session and was approved to move forward as a Consent Agenda Item at the April 18, 2022 Board of Commissioners' Meeting:

Adopt the attached resolution allowing the department to move forward with the application for funding.

**STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND**

**AUTHORIZING RESOLUTION
WATER AND WASTE WATER
PROJECTS**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater system improvements, and

WHEREAS, The Gray's Creek Water & Sewer District has need for and intends to construct a drinking water system project described as:

This project is for the construction of a new central water distribution system to serve an area in Cumberland County that have private wells contaminated above the State's provisional health goal for drinking water.

WHEREAS, The Gray's Creek Water & Sewer District intends to request state loan and/or grant assistance for the projects,

**NOW THEREFORE BE IT RESOLVED, BY THE GOVERNING BOARD OF THE
GRAY'S CREEK WATER AND SEWER DISTRICT:**

That the Gray's Creek Water & Sewer District, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for

proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Gray's Creek Water & Sewer District to make scheduled repayment of the loan, to withhold from the Gray's Creek Water & Sewer District any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide, or contract for, the efficient operation and maintenance of the project upon completion of construction thereof.

That **Amy H. Cannon**, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the construction of the projects described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted at a meeting of the Governing Board of the Gray's Creek Water and Sewer District held on the 18th day of April 2022 in the Commissioners Meeting Room, Room 118, Judge E. Maurice Braswell Cumberland County Courthouse, 117 Dick Street, in Fayetteville, North Carolina.

6. Formal Bid Award for Cumberland County Detention Center Boiler Replacement

BACKGROUND

On December 20, 2021, the Board of Commissioners approved an amendment to the FY 2022 Capital Improvement Projects shifting three projects from Fiscal Year 2022 to Fiscal Year 2023 in order to fund the replacement of the secondary boiler at the Cumberland County Detention Center.

The project was advertised through the formal bid process in which the bidding period opened on February 11, 2022 and closed on March 11, 2022. There were two addendums to the original solicitation. Haire Plumbing and Mechanical Company Incorporated had the lowest responsive bid at \$357K. Funds are budgeted for this replacement project.

Both boilers are over 20 years-old and it would be catastrophic to lose a heating boiler for a facility that operates on a continuous basis.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022, Board of Commissioners' Agenda Session and was moved forward to the April 18, 2022 Board of Commissioners Regular Meeting as a Consent Item.

1. The Board of Commissioners accept Haire Plumbing and Mechanical Company Incorporated as the lowest responsive bid through the formal bid process.
2. Approve contract execution by the Chairman once the contract completes pre-audit and is deemed legally sufficient.

7. Adoption of Revised Code of Ethics to Incorporate Statutory Changes

BACKGROUND

The Legislature mandated that all local elected boards adopt a code of ethics by the end of 2010. The board of commissioners did so on November 15, 2010. The attached Code of Ethics is a revision incorporating statutory changes that occurred in 2021. The changes are at the end of the document in the section entitled, "Additional Legal Restrictions Applicable to Certain Conduct."

The change in the criminal provisions is most significant. G.S. 234.2 is a new statute that makes it a felony for an elected county official to solicit or receive personal financial gain from the county by means of intimidation, undue influence, or misuse of employees. G.S. 234.3 is another new statute that prohibits an elected or appointed commissioner from participating in making or administering any contract with any nonprofit for which he or she also serves as a director, officer, or governing board member of the nonprofit. This does not apply to nonprofits created by the county. The penalty for violating this statute is a misdemeanor and the contract is also void. If any commissioner is serving in any capacity for a nonprofit seeking funding from the county, the county attorney advises that commissioner should make a disclosure so that appropriate measures can be taken for the board to approve the contract.

There is one significant change in the section entitled, "Statutory Obligations without Criminal Penalties." G.S. 153A-28(b) is a new statute which requires the finance officer to garnish the compensation of any commissioner with unpaid debt for county services. The most common way this can occur is when a commissioner does not use all a travel advance for the purposes for which it was received. The other changes made to this section were to correct the statutory cites resulting from Chapter 160 becoming law.

At its April 14, 2022, Agenda Session, the Board voted unanimously to move this item forward to the consent agenda of the April 18, 2022, Regular Meeting.

RECOMMENDATION / PROPOSED ACTION

County attorney advises the board to adopt the amended Code of Ethics by adopting the following resolution:

RESOLUTION ADOPTING A REVISED CODE OF ETHICS

Whereas, the Board of Commissioners adopted a Code of Ethics November, 15, 2010; and

Whereas, statutory changes in 2021 require revisions to the Code of Ethics adopted in 2010.

Be it hereby resolved that the Board of Commissioners adopts the Code of Ethics attached hereto in its entirety for the purpose of bringing the Code of Ethics current with the General Statutes of North Carolina.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS CODE OF ETHICS ADOPTED PURSUANT TO N.C.G.S. § 160A-86 *April 18, 2022*

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty;" and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires boards of county commissioners to adopt a code of ethics to guide actions by the governing board members in the performance of the member's official duties as a member of that governing board; and

WHEREAS, as elected local government officials we are charged with upholding the trust of the citizens of Cumberland County, North Carolina, and with obeying relevant laws.

NOW THEREFORE, BE IT RESOLVED in recognition. of our blessings and obligations as citizens of the State of North Carolina and as elected county commissioners representing the citizens of Cumberland County and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, the Cumberland County Board of Commissioners does hereby adopt the following general principles and code of ethics to guide the board and its individual members in lawful decision-making. (Hereinafter the terms "elected local government official(s) or elected official(s), the board, board member(s) or elected member(s)," shall be used interchangeably when referring to the members of or to the Cumberland County Board of Commissioners.)

GENERAL PRINCIPLES UNDERLYING THIS CODE OF ETHICS

- The stability and proper operation of democratic representative government depends upon public confidence in the integrity of the government, and upon responsible exercise of the trust conferred by the people upon their elected officials.

- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Elected local government officials must be able act in a manner that maintains their integrity and independence yet is responsive to the interests and needs of those they represent.
- Elected local government officials must always remain aware that at various times they play different roles:
 - (i) as advocates, who strive to advance the legitimate needs of their citizens;
 - (ii) as legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions; and
 - (iii) as fair and impartial decision-makers, when making quasi-judicial and administrative determinations.
- Elected local government officials must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Elected local government officials must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must be guided by his or her own conscience to determine what conduct is appropriate.

CODE OF ETHICS

Purpose. The purpose of this code of ethics is to establish guidelines for ethical standards of conduct for board members and to provide guidance in determining what conduct is appropriate under the circumstances. It should not be considered a substitute for the law or for a board member's best judgment.

Section 1. Board members should take care to obey all laws that apply to their official actions as board members. Board members should be guided by the spirit as well as the letter of the law in whatever they do. At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. No board member should assert that a fellow board member is behaving unethically based upon a disagreement with that board member on a question of policy rather than on the board member's ethical behavior. The board and its members shall endeavor to keep it and themselves up to date on new or on-going legal or ethical quandaries or difficulties that they may face in their official positions.

Section 2. Board members should act with integrity and with independence from improper influence as they exercise the functions of their offices. Board members should use their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner. They should be self-governing and not subject to improper influence, while at the same time being able to consider the opinions and ideas of others. At the same time, however, board members should recognize that they are part of the board and should act accordingly. They should respect their office and the board and not behave in ways that reflect badly on either. They should treat other board members and the public with respect and should honor the opinions of others even when they disagree. They should recognize that they are not generally authorized to act on behalf of the board, since the board must take official action as a body.

Section 3.

(a) Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. A board member shall be considered to be acting with impropriety if a reasonable person who was made aware of the totality of the circumstances surrounding the board member's action would conclude that it was more likely than not that the behavior did not benefit someone in the board member's position.

(b) If a board member concludes that his or her actions, while legal and ethical, may be misunderstood, he or she may seek the advice of the board's attorney. He or she may also state on the record the facts of the situation and the steps taken to resolve it.

Section 4. Board members should be faithful in the performance of the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. In furtherance of their obligation, board members should be faithful in their attendance at meetings and in their preparation

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

for those meetings. They should carefully analyze all credible information that is provided to them. As a group of citizens to whom much has been entrusted, the board should demand full accountability from those over whom it has authority. The board should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

Section 5. Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. This recognition includes sensitivity to those matters or documents recognized by law as non-public, confidential, or protected. Board members should be always aware that when meeting they are conducting the public's business. Board members should always be aware that their individual written and electronic communications to each other, staff, constituents, and others about matters within the purview of the board should also be regarded as the conduct of the public's business. They should also remember that the records of their local government belong to the public and not to them or their employees. They should make clear that a climate of openness is always to be maintained in the conduct of the public's business. To ensure strict compliance with the laws governing openness, board members should strive to be open. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps before they go into closed session for any reason to ensure that the closed session will be conducted solely for lawful purposes.

ADDITIONAL LEGAL RESTRICTIONS APPLICABLE TO CERTAIN CONDUCT

Criminal Violations. The governing board has no authority to bring criminal charges against its members or to otherwise control its members' behaviors; however, board members should always be vigilant to avoid conduct and conflicts for which they might be subject to criminal prosecution, well beyond the scope of this code of ethics. There are seven very broad criminal statutes which prohibit certain conduct as follows:

N.C.G.S. § 14-234(a)(1) prohibits all public officers and employees from obtaining any direct benefit from any contract in which they are involved in making or administering on behalf of their government agency.

N.C.G.S. § 14-234(a)(2) prohibits all public officers and employees who are not involved in making or administering a contract, but who are deriving a direct benefit from the contract, from attempting to influence any other person who is involved in making or administering the contract.

N.C.G.S. § 14-234(a)(3) prohibits all public officers and employees from soliciting or receiving any gift, reward, or promise of reward, including a promise of future employment, in exchange for recommending or influencing the award of a contract by the public agency he or she serves.

It is important to remember that under any of the above statutes, a person directly benefits from a contract if he or she, or his or her spouse, owns more than a ten percent (10%) interest in the company which is the contractor; derives any income or commission from the contract; or acquires any property under the contract.

N.C.G.S. § 14-234.1 prohibits any public officer or employee from misusing any information made known to the public officer or employee in his or her official capacity before it is made public by acquiring an interest in any property, transaction, or enterprise, or gain any pecuniary benefit which may be affected by such information or official action; or to intentionally aid anyone else in doing any of these acts.

N.C.G.S. § 14-234.2 prohibits any elected officer of a county from soliciting or receiving personal financial gain from the county which the elected officer serves by means of intimidation, undue influence, or misuse of the employees of the county. It is important to note that a violation of this statute constitutes a Class H felony.

N.C.G.S. § 14-234.3 prohibits county commissioners from participating in making or administering a contract, including the award of money in the form of grants, loans, or other appropriation, with any nonprofit for which the county commissioner serves as a director, officer, or governing board member. Participation in making or administering a contract includes deliberating or voting on the contract; attempting to influence any person who is deliberating or voting on the contract; or soliciting or receiving any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the county with the nonprofit.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

N.C.G.S. § 133-32 prohibits all public officers and employees with the duties of preparing plans, specifications, or estimates for public contracts; awarding or administering public contracts; or inspecting or supervising construction from accepting any gift or favor from any current, past or potential contractor with the governmental agency.

Statutory Obligations without Criminal Penalties. In addition to the statutes with criminal penalties, there are several statutes that prescribe obligations or limit the actions of board members without specific consequences to the individual board members. These statutes are as follows:

N.C.G.S. § 153A-28(b) requires the finance office to garnish compensation paid to any board member to collect any unpaid monies due to the county for county services until such debt is paid in full.

N.C.G.S. § 153A-44 requires a board member to avoid voting only on matters that involve his or her own financial interest or official conduct. Otherwise, this statute implies that board members are obligated to vote.

N.C.G.S. § 160A-87 requires each board member to receive two clock hours of ethics education within 12 months of his or her each election or appointment to a term on the board with the clerk to the board to maintain a record verifying compliance of this requirement by each board member.

N.C.G.S. § 160D-109(a) prohibits a governing board member from voting on any legislative decision regarding a development regulation adopted pursuant Chapter 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

N.C.G.S. § 160D-109(d) prohibits a governing board member exercising quasi-judicial functions pursuant to Chapter 160D from participating in or voting on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. A "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

N.C.G.S. § 160D-109(e) provides that if an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter being considered pursuant to Chapter 160D and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

Adopted at a regular meeting held April 18, 2022

This document was drafted by R. Moorefield, County Attorney, October 27, 2010. It is acknowledged that much of the language is substantially taken from A Model Code of Ethics for North Carolina Elected Officials, authored by A. Fleming Bell, II, and published by the School of Government, The University of North Carolina at Chapel Hill, 2010. Revisions were drafted March 29, 2022, to incorporate statutory changes.

MOTION: Commissioner Council voted to approve consent agenda Items 3.A. – 3.E.7.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (4-0) (Commissioner Evans was not connected.)

4. PUBLIC HEARINGS

Amy Cannon, County Manager, explained the Board of Commissioners' procedures for public hearings.

A. Public Hearing - Draft Community Development PY 2022 Annual Action Plan

BACKGROUND

Community Development is in the planning process for the Program Year 2022 Annual Action Plan. The Annual Action Plan is a required document that must be submitted to the U.S. Department of Housing and Urban Development (HUD) by May 15, 2022 in order to continue to

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

receive annual entitlements of the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds.

The Program Year 2022 Annual Action Plan includes information about how Community Development plans to use CDBG, HOME, and other funding sources to address the priority needs identified in the 2020-2024 Consolidated Plan. In addition, the plan identifies projects that will be undertaken during the period from July 1, 2022 through June 30, 2023. The Draft 2022 Annual Action Plan is available for a 30-day public review and comment period throughout Cumberland County from March 22, 2022 to April 20, 2022.

As part of following the citizen participation process, a public hearing must be held during the comment period. All comments received regarding the plan will be addressed by Community Development within 15 days of receipt and will be included in the final plan that will be submitted to HUD. After the public review period, the final copy of the plan will be submitted to the Board of Commissioners for approval to submit to HUD by the deadline.

RECOMMENDATION / PROPOSED ACTION

Community Development requests that the Board of County Commissioners hold a public hearing on the draft Program Year 2022 Annual Action Plan to offer input and comments, as well as to receive comments from the public. No other action is necessary.

Dee Taylor, Community Development Director, presented the background information recorded above. Ms. Taylor stated for PY2022, the county expects to receive an estimated allocation of \$858,539 in CDBG funds and an estimated allocation of \$376,512 in HOME funds. Ms. Taylor stated the Annual Action Plan identifies funding sources and how priority needs of the community will be addressed. Ms. Taylor referenced the summarization of the objectives and outcomes identified in the Plan and the evaluation of past performance that helped the county choose its goals and projects outlined in the 2022-2024 Consolidated Plan. Ms. Taylor also explained how information about the Plan was disseminated and the citizen participation process to include the public hearing being requested.

Chairman Adams opened the public hearing.

The clerk to the board advised there were no speakers

Chairman Adams closed the public hearing.

MOTION: Commissioner Stewart moved to approve the draft Community Development PY 2022 Annual Action Plan.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (4-0) (Commissioner Evans was not connected.)

Rezoning Cases

B. Case ZON-22-0030: Rezoning from R10 Residential District to C(P) Planned Commercial District on 0.37 +/- acres or to a more restrictive zoning district; located at 3359 Cumberland Road; submitted by George Rose (agent) on behalf of J. Gary and Terry Ciccone (owners).

David Moon, Deputy Planning and Inspections Director, showed vicinity or location maps and aerial views of the subject property. Mr. Moon provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions. Mr. Moon stated no sewer lines are available the property and PWC water lines are available for the site. Mr. Moon stated the site is within the Southwest Land Use Plan and the request is not consistent with policy guidelines that recommend sewer must be available to support C(P) zoning, which promotes heavy commercial uses. Mr. Moon stated the applicant agreed to lower the intensity of the

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

rezoning and submitted a letter requesting C2(P) Planned Service and Retail District. Mr. Moon stated Planning Staff recommended denial of the original request for C(P) Planned Commercial District but did not have an issue with the amended C2(P) request. Mr. Moon stated the Planning Board recommended denial of the request for C(P) Planned Commercial District and unanimously supported rezoning from R10 to C2(P) Planned Service and Retail District.

Commissioner Keefe arrived at 7:05 p.m.

Chairman Adams opened the public hearing for Case ZON-22-0030.

The clerk to the board called the following speaker for Case ZON-22-0030:

George Rose – Mr. Rose appeared as a proponent and stated he is an Engineer representing the owners and they agreed with the recommendation to lower the rezoning request from C(P) to C2(P) Planned Service and Retail District.

Chairman Adams closed the public hearing for Case ZON-22-0030.

MOTION: Commissioner Lancaster moved in Case ZON-22-0030 to deny the rezoning request from R10 Residential District to C(P) Planned Commercial District and approve the Joint Planning Board recommendation to rezone from R10 to C2(P) Planned Service and Retail District, which is a more restrictive zoning and find that the C2(P) district is consistent with the Southwest Cumberland Land Use Plan and the Cumberland Road Business Plan and is in harmony with the surrounding land use activities and zoning for this location.

SECOND: Commissioner Council

VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

C. Case ZON-22-0031: Rezoning from A1 Agricultural District to R40 Residential District for two parcels on 3.52 +/- combined acres or to a more restrictive zoning district; located at 1012 and 1032 John Nunnery Road, and south of Stoney Branch Road; submitted by Jerry Cashwell II (applicant) on behalf of Jerry Cashwell II, Melanie White, and Barbara Faircloth (owners).

David Moon, Deputy Planning and Inspections Director, showed vicinity or location maps and aerial views of the subject property. Mr. Moon provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions. Mr. Moon stated the applicant intends to recombine and subdivide the two parcels on the 3.52 acres to create lot sizes with a minimum of 40,000 square feet. Mr. Moon stated no water or sewer lines are available and the rezoning request is consistent with the Stedman Land Use Plan. Mr. Moon stated Planning Staff and the Planning Board recommended approval to rezone to R40 Residential District.

Chairman Adams opened the public hearing for Case ZON-22-0031.

The clerk to the board called the following speaker for Case ZON-22-0031.

Jerry Cashwell – Mr. Cashwell appeared as a proponent and stated he owns one of the parcels and his parents who are deceased owned the other parcel. Mr. Cashwell stated he wants to straighten the property line, include an out-building on his parcel and not change anything that currently exists.

Chairman Adams closed the public hearing for Case ZON-22-0031.

MOTION: Commissioner Lancaster moved in Case ZON-22-0031 to approve the rezoning request from A1 Agricultural District to R40 Residential District and find that the request is consistent with the Stedman Land Use Plan. Approval of the request is reasonable and in the public interest because the R40 Residential District would

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

allow residential uses at a density that would be compatible and in harmony with the surrounding land use activities and zoning.

SECOND: Commissioner Council

VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

D. Case ZON-22-0032: Rezoning from A1 Agricultural District to R40 Residential District on 20.61 +/- acres or to a more restrictive zoning district; located at 7149 Butler Nursery Road, and east of NC HWY 87 S; submitted by Kyle Dixon (owner) on behalf of Kyle and Mari Dixon (owners).

David Moon, Deputy Planning and Inspections Director, showed vicinity or location maps and aerial views of the subject property. Mr. Moon provided overviews of the current land uses, current zonings, and surrounding land uses and zonings as well as soil conditions. Mr. Moon stated the intent is to build a single-family residential development on the approximately 20.6 acres. Mr. Moon stated water and sewer are not available near the property and the property is located in the Gray's Creek Water and Sewer District. Mr. Moon stated under the South-Central Cumberland Land Use Plan, the site is designated as Farmland. Mr. Moon stated Planning Staff and the Planning Board recommended approval of rezoning from A1 Agricultural District to R40 Residential District.

Commissioner Keefe asked whether the rezoning request included zero lot line development. Mr. Moon responded it did when the request was brought forward in 2020 but it has not being brought forward with the current request. Commissioner Keefe asked whether development would have to adhere 100% to R40 standards if the rezoning request was approved. Mr. Moon responded in the affirmative. Commissioner Keefe asked whether this case could be brought in as zero lot line development if the rezoning request was approved. Mr. Moon stated at the time of a subdivision application, the code would allow them to make a request for zero lot line development. Commissioner Keefe asked whether the applicant requested zero lot line development. Mr. Moon stated an application for a subdivision plan has not been submitted and that question would have to be posed to the applicant.

When considering the number of speakers in Case ZON-22-0032, Chairman Adams advised speakers appearing as proponents would be allowed three minutes per speaker and speakers appearing as opponents would be allowed two minutes per speaker.

Commissioner Evans' connectivity to the meeting was confirmed at 7:20 p.m.

Chairman Adams opened the public hearing for Case ZON-22-0032.

The clerk to the board called the following speakers for Case ZON-22-0032:

Kyle Dixon – Mr. Dixon appeared as a proponent and asked to defer his time to Attorney Charleston. Chairman Adams stated he allowed Attorney Charleston to sign up late but would not allow time to be deferred to Attorney Charleston. Mr. Dixon stated he purchased the 20 acres on Butler Nursery Road and is asking for R40 which is one house per acre.

Mari Dixon – Ms. Dixon appeared as a proponent and stated R40 was requested with the intent to develop a subdivision. Ms. Dixon stated all requirements of the Planning Board have been met and the request of the Board of Commissioners is to support the rezoning.

Breeden Blackwell – Mr. Blackwell appeared as a proponent and stated meetings have been held with Planning Staff and the Planning Board and the request meets every criterion and all the specifications for that area of the county. Mr. Blackwell stated the request came before the Board about a year ago and the request was revised due to concerns. Mr. Blackwell stated he understands Commissioner

Keefe's concerns about zero lot line, and it has not been added and is not in the plan.

Jonathan Charleston – Attorney Charleston appeared as a proponent appearing on behalf of the property owners who have interest in developing the 20-acre tract of land for a residential subdivision. Attorney Charleston stated there will be no zero lot line development and that was something written on the plat when the case came forward a year ago. Attorney Charleston stated this tract of land and this request fits perfectly within the South-Central Land Use Plan that was developed by the Board of Commissioners in 2015. Attorney Charleston stated all opposing comments at the meeting of the Joint Planning Board had to do more with noise and things of that nature; noise not to be caused by future residents but rather noise created by the airport and things objectionable about the airport and the effect of the airport on prospective residents. Attorney Charleston stated that is not criteria related to rezoning to this particular category. Attorney Charleston referenced the minutes from the meeting of the Joint Planning Board and stated no points were made that this request is inconsistent with R40 designation or inconsistent with the rural nature of the community in that area. Attorney Charleston stated the 20 families that are likely to live on the lots in the development will not tip the scale in any way in Gray's Creek; there are not any water problems, flooding problems in the area and staff reports indicate this particular site does not have any flooding issues, which was also a concern the Board of Commissioners had. Attorney Charleston stated he respectfully requests that the Board of Commissioners consider the request of the Dixon family to be able to sell their property at its highest and best use. Attorney Charleston stated there was nothing objectionable found at the meeting of the Planning Board and none of the individuals speaking in opposition stated any reason for this property not to be used as R40.

Terry Smith – Ms. Smith appeared as an opponent and stated her five-acre property with trees adjoins the subject property. Ms. Smith stated there is a lot of concern about where the water drainage will go. Ms. Smith stated Gray's Creek and the area in which she lives has already given so much and is very diverse and over developed. Ms. Smith expressed concern for wildlife in the area were it to be further developed and thanked the Board of Commissioners for denying the rezoning request a year ago.

Carla Giles – Ms. Giles appeared as an opponent and stated the 20-acre site is next to her property she has lived on for 27 years and it has been nice and peaceful. Ms. Giles spoke to flooding during a recent hurricane and stated water is horrible in the area. Ms. Giles stated she receives a delivery of drinking water every week and the water in the area is contaminated, and she hates to see developers building on top of each other. Ms. Giles expressed concerns for the disappearance of wildlife in the area and stated it is all about money.

Scot Smith – Mr. Smith appeared as an opponent and stated he owns the airport and operates a flight school next to the subject property, and although he is concerned about the noise, he is mainly the safety of the proposed residential subdivision because it is within the traffic pattern of the airport where he trains individuals to fly. Ms. Smith provided statistics for accidents that occur within the traffic pattern of airports and stated if the same protections were place for his airport that are in place for the Fayetteville Regional Airport, the subject property would be in Zone 1 which does not allow residential development.

Elayne Humphrey – Ms. Humphrey appeared as an opponent and stated she is a flight instructor at the airport, and she has seen quite a bit of flooding on the site by working at the airport every day. Ms. Humphrey stated her main concern is for the safety of the homes that will be built on the site because teaching people to fly is a dangerous profession and full of scary experiences. Ms. Humphrey spoke to "engine out" situations and areas in which students are directed to land. Ms.

Humphrey stated if 20 houses are placed on the site, it will directly affect those people as well as the students they teach.

Jack Cain – Mr. Cain appeared as an opponent and stated his concern is about the schools and whether they can handle the growth, and he is concerned about water runoff. Ms. Cain stated the water is contaminated with GenX, there is no sewer, and adding 20 houses will not help the schools or the community.

Ray Cain – Mr. Cain appeared as an opponent and stated he owns 20 acres next to the site and without parks and playgrounds in Gray's Creek, he does not know where the children will play when in a subdivision has one house per acre. Mr. Cain stated there is a problem with water in the area and his neighbor was offered \$5,000 to drain his lot. Mr. Cain stated there is a problem with drinking water and if a well is drilled, the water is contaminated with GenX. Mr. Cain stated he does not see building more homes in Gray's Creek until the water issue is resolved, and there is also no available sewer.

Donald Pate – Mr. Pate appeared as an opponent and stated his concern is erosion and if the undergrowth behind his property is cut out, it will flood his property. Mr. Pate stated last fall he was offered \$5,000 by Tim Evans to put a berm around his property so the water would not flow into his backyard. Mr. Pate stated if he put in a berm, it would divert water on to his neighbors, and he did not want any part of that. Mr. Pate stated Mr. Evans knows there is a problem because he was told that if he did not put a berm on his property, the development would lose a lot because a retention pond could be put in, which would only be a mosquito pit for him.

Chairman Adams closed the public hearing for Case ZON-22-0032.

Commissioner Keefe stated the only reason rezoning cases involving Gray's Creek come before the Board of Commissioners is because people are willing to sell their property and he has always been consistent about the character of the area. Commissioner Keefe stated the rural nature is still maintained with one house per acre, but he has some requirements which are: if it is R40, it is not zero lot line; if it is R40, there are setbacks equal to R40 setbacks to the front, to the back and to the sides; and all lots must be at least 40,000 square feet. Commissioner Keefe asked whether the builder agreed to those conditions and whether issues expressed about runoff had been looked at or engineered. Mr. Dixon stated it is about midway through and he has not done any engineering since. Commissioner Keefe asked Mr. Dixon if he was waiting to see what happens at this meeting to which Mr. Dixon responded in the affirmative. Commissioner Keefe asked Mr. Smith why he did not purchase the site when it went on sale. Mr. Smith stated the site just changed hands and was not publicly known to be for sale. Commissioner Keefe stated areas around an airport cannot be restricted and it sounds to him that Mr. Smith does not really want anything to happen to that piece of property. Mr. Smith stated the airport is looking for protections similar to those given to municipal airports. Commissioner Keefe stated even without the rezoning, eight houses could be constructed on the site which would still affect the safety of the airport's site plan.

Chairman Adams stated he has been consistent about Gray's Creek because of the lack of water and sewer.

MOTION: Commissioner Keefe moved in Case ZON-22-0032 to approve the rezoning request from A1 Agricultural District to R40 Residential District provided that the R40 be a Conditional Zoning subject to the conditions agreed upon by the applicant in the meeting and find that the request is consistent with the South-Central Cumberland Land Use Plan. Approval of the request is reasonable and in the public interest because the R40 Residential District (CZ) would allow residential uses at a density that would be compatible to and in harmony with the surrounding land use activities and zoning provided the conditions as stated earlier are met.

SECOND: Commissioner Council

Rick Moorefield, County Attorney, stated for the record, Commissioner Keefe is offering the motion as a conditional zoning and the applicant has agreed to the conditions. Mr. Moorefield

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

asked Commissioner Keefe to state the conditions for purposes of the record. Commissioner Keefe stated the conditions are that this is not a zero lot line development, that there is only one house allowed for every 40,000 square feet, and the setbacks for each lot are consistent with R40.

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

VOTE: PASSED (4-2)

5. ITEMS OF BUSINESS

A. Downtown Museum Presentation

BACKGROUND

Chairman Adams asked that the board of commissioners receive a presentation on the downtown museum at the April 14, 2022 Agenda Session meeting.

RECOMMENDATION / PROPOSED ACTION

Following the presentation at the April 14, 2022 Agenda Session meeting, the Board of Commissioners approved forwarding the recommended action below to the Board of Commissioners' April 18, 2022 agenda:

Set aside \$450,000 for the proposed African American Museum in Cumberland County.

Chairman Adams recognized Dr. Davu Evans, Associate Director for the Black History Museum project, who presented information about the concept of bringing a Black History Museum to downtown Fayetteville. D. Evans Architect Sir David Adjaye, whose largest project is The National Museum of African American History and Culture in Washington, D.C., would design the building. Dr. Evans stated the proposed museum would connect with the repurposed downtown Market House, the historic downtown, existing memorial projects and corridor projects such as that planned for the Murchison Road district. Dr. Evans also stated the museum would incorporate history with African American voice, authors, theater, and music and spoken word, and would tell the story of Fayetteville's Black Community, which has not been done before.

Commissioner Keefe stated this is the first he has heard about this museum, he has been a county commissioner for 13 years, and he was not even aware this museum was even in the pipeline. Commissioner Keefe stated his biggest problem with the process is that this presentation came before the Board of Commissioners at an Agenda Session which was really just one working day before this meeting because of the Easter weekend. Commissioner Keefe stated this is fast-tracking a half-million dollars of public taxpayers' funding on speculation. Robert Van Geons, Fayetteville Cumberland Economic Development Corporation President and CEO, stated what was brought forward was the initial concept and he referred to the presentation as an introductory conversation. Mr. Van Geons stated smaller conversations have occurred as the project have evolved. Commissioner Keefe posed additional questions.

Commissioner Keefe stated this is a military community, he is a student of military history and there are a number of African Americans who have made significant contributions from the very beginning of this country. Commissioner Keefe stated because their stories are not told, he would like to see a military component incorporated into this project.

MOTION: Commissioner Council moved to set aside \$450,000 for the proposed African American Museum in Cumberland County.

SECOND: Commissioner Evans

DISCUSSION: Commissioner Keefe stated he is not against the project, but he felt that subjecting \$900,000 of taxpayers' money to a presentation that the Board of Commissioners received one working day ago was too fast.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

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

VOTE: PASSED (5-1)

Commissioner Evans lost connectivity to the meeting.

6. NOMINATIONS

A. Home and Community Care Block Grant Committee (1 Vacancy)

Commissioner Stewart nominated Devin Trego.

B. Human Relations Commission (1 Vacancy)

Commissioner Stewart nominated Abram Flores.

Chairman Adams recessed the Board of Commissioners' meeting.

Chairman Adams convened the meeting of the Gray's Creek Water and Sewer District Governing Board.

7. GRAY'S CREEK WATER AND SEWER DISTRICT GOVERNING BOARD AND CONSENT AGENDA

A. Resolution for Gray's Creek Water Sewer District Grant Application

BACKGROUND

The Cumberland County Engineering and Infrastructure and Public Utilities Departments are applying for the \$15M Drinking Water Reserve and Wastewater Reserve (State Reserves) Grant. This Grant is for:

1. Project construction grants for public water systems and wastewater systems NC DEQ categorizes as at- risk of becoming distressed.
2. Project construction grants for public water systems and wastewater systems not designated as distressed or categorized as at-risk.
3. Grants for asset inventory and assessments, rate studies, merger/regionalization feasibility, training, and planning grants to conduct project engineering, design, or other preconstruction activities.

In order to apply for the grant, the County must adopt a resolution authorizing the water sewer project and the filing of the grant application with the State of North Carolina.

The dates to apply are May 2 and September 2, 2022.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022, Board of Commissioners' Agenda Session and was approved to move forward as a Consent Agenda Item at the April 18, 2022 Board of Commissioners' Meeting:

Adopt the attached resolution allowing the department to move forward with the application for funding.

**STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND**

**AUTHORIZING RESOLUTION
WATER AND WASTE WATER
PROJECTS**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

to aid eligible units of government in financing the cost of construction of wastewater system improvements, and

WHEREAS, The Gray's Creek Water & Sewer District has need for and intends to construct a drinking water system project described as:

This project is for the construction of a new central water distribution system to serve an area in Cumberland County that have private wells contaminated above the State's provisional health goal for drinking water.

WHEREAS, The Gray's Creek Water & Sewer District intends to request state loan and/or grant assistance for the projects,

NOW THEREFORE BE IT RESOLVED, BY THE GOVERNING BOARD OF THE GRAY'S CREEK WATER AND SEWER DISTRICT:

That the Gray's Creek Water & Sewer District, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Gray's Creek Water & Sewer District to make scheduled repayment of the loan, to withhold from the Gray's Creek Water & Sewer District any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide, or contract for, the efficient operation and maintenance of the project upon completion of construction thereof.

That **Amy H. Cannon**, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the construction of the projects described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted at a meeting of the Governing Board of the Gray's Creek Water and Sewer District held on the 18th day of April 2022 in the Commissioners Meeting Room, Room 118, Judge E. Maurice Braswell Cumberland County Courthouse, 117 Dick Street, in Fayetteville, North Carolina.

MOTION: Commissioner Lancaster moved to adopt the resolution recorded above allowing the department to move forward with the application for funding.
SECOND: Commissioner Council
VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

Chairman Adams adjourned the meeting of the Gray's Creek Water and Sewer District Governing Board.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

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

8. NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD CONSENT AGENDA

A. Resolution for The Northern Cumberland Regional Sanitary Water and Sewer District (NORCRESS) Grant Application

BACKGROUND

The Cumberland County Engineering and Infrastructure and Public Utilities Departments are applying for the Viable Utility Reserve Grant. This Grant is for water and wastewater systems that have been designated as distressed by the State Water Infrastructure Authority and the Local Government Commission, for the purposes set forth in subdivisions (1) through (5) of G.S. 159G-32(d).

In order to apply for the grant, the County must adopt a resolution authorizing the water sewer project and the filing of the grant application with the State of North Carolina.

The maximum single award is up to \$15M and the date to apply is May 2, 2022.

RECOMMENDATION / PROPOSED ACTION

This item was presented at the April 14, 2022, Board of Commissioners' Agenda Session and brought forward as a Consent Agenda Item.

Staff recommends the Board of Commissioners adopt the attached resolution allowing the department to move forward with the application for funding.

**STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND**

**AUTHORIZING RESOLUTION
WATER AND WASTE WATER
PROJECTS**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater system improvements, and

WHEREAS, The NORCRESS Water & Sewer District has need for and intends to make improvements to its wastewater system project described as:

This project is to provide needed repairs to the sewer system and lift stations based off the comprehensive sewer evaluation conducted on the system. The repairs needed are to get the system operating at the original design standards and to prevent the operational issues of a long, low flow force main that has gas binding and sludge accumulation, which is causing inefficiencies with the pumps at the lift stations.

WHEREAS, The NORCRESS Water & Sewer District intends to request state loan and/or grant assistance for the projects,

NOW THEREFORE BE IT RESOLVED, BY THE GOVERNING BOARD OF THE NORCRESS WATER AND SEWER DISTRICT:

That the NORCRESS Water & Sewer District, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <https://www.cumberlandcountync.gov/departments/commissioners-group/commissioners/meetings/agendas-minutes-and-videos>

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the NORCRESS Water & Sewer District to make scheduled repayment of the loan, to withhold from the NORCRESS Water & Sewer District any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide, or contract for, the efficient operation and maintenance of the project upon completion of construction thereof.

That Amy H. Cannon, County Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the construction of the projects described above.

That the Authorized **Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted at a meeting of the Governing Board of the NORCRESS Water and Sewer District held on the 18th day of April 2022 in the Commissioners Meeting Room, Room 118, Judge E. Maurice Braswell Cumberland County Courthouse, 117 Dick Street, in Fayetteville, North Carolina.

MOTION: Commissioner Council moved to adopt the resolution recorded above allowing the department to move forward with the application for funding.
SECOND: Commissioner Lancaster
VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

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

Chairman Adams reconvened the Board of Commissioners' meeting.

9. CLOSED SESSION:

A. Real Property Acquisition Pursuant to NCGS 143.318.11(a)(5)

MOTION: Commissioner Council moved to go into closed session for Real Property Acquisition Pursuant to NCGS 143.318.11(a)(5).
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

MOTION: Commissioner Council moved to come out of closed session.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

MOTION: Commissioner Lancaster moved to adjourn.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (5-0) (Commissioner Evans was not connected.)

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

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board