

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 6, 2022 – 9:00 AM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR MEETING MINUTES

PRESENT: Commissioner Glenn Adams, Chairman
Commissioner Toni Stewart, Vice Chairwoman
Commissioner Michael Boose
Commissioner Jeannette Council
Commissioner Jimmy Keefe
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
Ivonne Mendez, Deputy Finance Director
Rawls Howard, Planning and Inspections Director
Tye Vaught, Management Analyst
Faith Phillips, Public Library Director
Candice H. White, Clerk to the Board
Andrea Tebbe, Deputy Clerk
Press

ABSENT: Commissioner Charles Evans

Chairman Adams called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

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

RECOGNITION

Retired Cumberland County Employee:
Cindy Tucker- Cumberland County Administration

Chairman Adams provided the following comments in recognition of retired Cumberland County employee Cindy Tucker. One of our greatest joys as commissioners is the celebration of our greatest resource – our employees. Tonight, we honor someone who retired very recently, on March 31, after a long, distinguished career serving Cumberland County Government's Administration. Cindy Tucker joined the County in 2000 and served as administrative coordinator to the County Manager for 22 years, up until her retirement this year. It's a demanding job that requires professionalism, proficiency and people skills. Cindy demonstrated all of these qualities and more during her time serving three different county managers. In addition to her duties in County Administration, Cindy provided invaluable administrative support to the Juvenile Crime Prevention Council, better known as JCPC. Cindy's talent for organizing and meticulous preparation for meetings were greatly appreciated, and still missed. It is an honor to recognize Cindy Tucker, who gave so much to this County. We wish her a happy, fulfilling retirement.

1. APPROVAL OF AGENDA

MOTION: Commissioner Boose moved to move Item 4 A. Amendment of Subdivision and Zoning Ordinances to Eliminate Zero Lot Line Subdivision to a separate meeting with the public hearing being the sole item on the agenda and that the time constraints be waived so everyone can be heard.

The motion died due to the lack of a second.

MOTION: Commissioner Lancaster moved to approve the agenda.
SECOND: Commissioner Council
VOTE: UNANIMOUS (6-0)

2. PRESENTATIONS

A. Update on Cumberland County Public Library Summer Reading Program

BACKGROUND

Cumberland County Public Library Director Faith Phillips will present information on this year's Summer Reading program that begins June 1, 2022 and ends August 15, 2022. This year's summer reading program is themed "Oceans of Possibilities" and is supported in part by funding from the Friends of the Cumberland County Public Library, Inc.

RECOMMENDATION / PROPOSED ACTION

For information purposes only.

Faith Phillips, Public Library Director, provided an update on Cumberland County Public Library Summer Reading Program aided by the following PowerPoint presentation:

Everyone is invited!

- June 1st – August 15th
- Theme: Oceans of Possibilities
- Earn prizes for reading and attending programs
- Encourages reading over the summer months

Awesome prizes!

- Children and Teens
 - 5 hours of reading is a free book
 - 10 hours of reading is a limited-edition Summer Reading t-shirt
- Adults: Read 5 books, e-books or audio books and receive a limited- edition Summer Reading t-shirt
- Babies: Bibs, growth charts, toys
- Branch & Grand Prizes
 - Gift cards and grand prize is a gift bundle with a one-year family pass to all three North Carolina Aquariums along with other items needed for a day at the beach!

Awesome Programs!

- NC Aquarium programs on turtles and sea creatures
- Didgeridoo Down Under programs on Australian sea creatures and the Great Barrier Reef

Signing up is easy!

- Come by any of our library locations!
 - Monday, Tuesday, Thursday 9:00am – 7:00pm
 - Wednesday, Friday, Saturday 9:00am – 6:00pm
 - Sunday 2:00 – 6:00pm at our Headquarters location
- Get info on how to sign up online at www.cumberlandcountync.gov/library

Ms. Phillips concluded her presentation and thanked the Board of Commissioners for their support of the library's last two initiatives.

3. CONSENT AGENDA

A. Approval of May 2, 2022 and May 16, 2022 Regular Meeting Minutes and May 23, 2022 Special Meeting Minutes

B. Approval of Oaths of Office of Members of the Cumberland County Industrial Facilities and Pollution Control Financing Authority

BACKGROUND

The Cumberland County Industrial Facilities and Pollution Control Financing Authority met May 24, 2022, to consider a financing for Cargill, Incorporated. Tracie Hines Lashley, Melissa Bostic, Donald Brooks and Timothy S. Richardson attended the meeting and gave their oaths of office. The authority selected Tracie Hines Lashley as Chair and Melissa Bostic as Vice-Chair. G.S. § 159C-4(a) requires the oaths of office of the authority members to be filed with the board of commissioners and entered into its minutes. The oaths of the four members who attended are attached.

RECOMMENDATION / PROPOSED ACTION

No action necessary.

C. Approval to Pay Prior Year Invoice

BACKGROUND

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

Department: Sheriff's Office
Vendor: InfuSystem
Invoice Dates: November 2020, and January 2021 - June 2021
Total Amount: \$844.00

Department: General Government - Other
Vendor: Staples
Invoice Dates: October 2020, January 2021, March 2021, and May 2021
Total Amount: \$1,441.67

Department: Community Development
Vendor: Fayetteville Observer
Invoice Dates: 06/01/2021 - 06/30/2021
Total Amount: \$282.39

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay prior year invoices for the Sheriff's Office totaling \$844.00, invoices for General Government - Other totaling \$1,441.67, and an invoice for Community Development totaling \$282.39.

D. Approval to Pay Prior Year Invoice and Budget Ordinance Amendment #220778

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. If a department does not have budgetary availability to pay the invoice in the current year budget, the Board of Commissioners is also requested to approve a budget ordinance amendment appropriating fund balance. The Community Development Department is required to re-pay funds that were drawn in a prior year. General fund dollars must be utilized to re-pay those funds. Once that occurs, Community Development staff will be able to draw federal fund dollars of the current year and the general fund will be reimbursed.

Department: Community Development
Vendor: U.S. Department of Housing and Urban Development
Total Amount: \$50,194.00

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay a prior year expense for Community Development totaling \$50,194.00 and Budget Ordinance Amendment #220778 to appropriate fund balance to cover the cost.

- E. Approval of Contract with Anexinet Corp DBA Veristor Systems for Storage and Server Components of Body Worn and In-Car Camera System

BACKGROUND

The Cumberland County Sheriff's Office (CCSO) wishes to contract with Anexinet Corp DBA Veristor Systems, LLC to purchase storage and server components for the Body Worn and In-Car Camera System. This contract is based on RFP 22-10-SO approved by the BOCC on January 18, 2022.

RECOMMENDATION / PROPOSED ACTION

Authorize approval of this contract as a Consent Agenda Item for the May 16, 2022 meeting and authorize the Board Chair to sign the contract.

- F. Approval of Onsite Fuel Supply Contract Amendment for Solid Waste

BACKGROUND

The Onsite Fuel Supply Contract for Solid Waste was awarded to Colonial Fuel & Lubricant Services, Inc. on April 16, 2018. The contract amount was not to exceed \$475,000. With the rise in fuel prices, a contract amendment is needed to increase the not to exceed amount to \$655,000.

The contract amendment has undergone pre-audit and has been deemed legally sufficient by the County Legal Department.

RECOMMENDATION / PROPOSED ACTION

Staff recommend the proposed actions:

1. Approve the contract amendment with Colonial Oil Industries, Inc.
2. Allow the Chairman to execute the contract on behalf of the County.

- G. Approval of Time Keeping Software Contract

BACKGROUND

Cumberland County Innovation and Technology Services has completed an extensive RFP process for acquiring a new Timekeeping software solution. The intention of the new Timekeeping system is to streamline, automate and improve the time keeping and payroll process. This system will improve customer service by increasing efficiency in operations by electronically storing, calculating, and processing employee time and attendance thereby creating a truly paperless timekeeping system. Advanced scheduling, leave request management, reporting, analytics, and mobility through web access and a mobile app will also be a part of the new system.

The new Timekeeping system will replace a very manual process in which time sheets are currently printed, signed, approved, and manually keyed into the payroll system for processing. Manual processing timesheets creates challenges in terms of discrepancies, entering and re-entering data, and making corrections.

Innovation and Technology Services budgeted \$220,000 for this project and is a part of the FY22 Capital Investment Fund. The Board of Commissioners previously approved award bid number 21- 12-IS totaling \$153,293 to Time Clock Plus (TCP) based on the best overall value standard of award. The associated contract is now ready for formal approval.

RECOMMENDATION / PROPOSED ACTION

Innovation and Technology Services recommends approval of the contract with TimeClock Plus(TCP) for the new Timekeeping System for Cumberland County.

- H. Acceptance of Offer to Purchase Surplus Property Located at 4210 Scary Creek Road, Fayetteville

BACKGROUND

The county acquired the real property with PIN 0472-08-4858, being Lot 14 McNeill Sands, Section 1, Rev., Plat Book 93 at Page 42 located at 4210 Scary Creek Road, Fayetteville, described in Deed Book 7730, Page 859, at a tax foreclosure sale in 2007 for a purchase price of \$5,614.39. The property is zoned A1 with a tax value of \$8,000. Based on the GIS Mapping and the tax records, there is no structure on the lot. Demond Hogan, on behalf of Black Rose 72 LLC, made an offer to purchase the property for \$5,614.39. 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 Demond Hogan, on behalf of Black Rose 72 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 NOTICE OF INTENT TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S § 160A-269

Take notice that the board of commissioners finds the real property with PIN 0472-08-4858, being Lot 14 McNeill Sands, Section 1, Rev., Plat Book 93 at Page 42 located at 4210 Scary Creek Road, Fayetteville, described in Deed Book 7730, Page 859, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$5,614.39. 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.

I. Approval of Budget Ordinance Amendments for the June 6, 2022 Board of Commissioners' Agenda

BACKGROUND

General Fund 101

- 1) General Government Other – Budget Ordinance Amendment B221224 to use \$1,800,000 of American Rescue Plan revenue replacement funds for Inclement Weather Shelter generators

The Board is requested to approve Budget Ordinance Amendment B221224 to use \$1,800,000 of American Rescue Plan revenue replacement funds for Inclement Weather Shelter generators. These stand-by generators will be placed at designated shelter locations.

Please note this amendment requires no additional county funds.

- 2) Law Enforcement Officer (LEO) Separation Allowance – Budget Ordinance Amendment B221121 to appropriate general fund balance to adjust the LEO Separation Allowance due to higher than anticipated supplemental retirement benefit expense in the amount of \$160,000

The Board is requested to approve Budget Ordinance Amendment B221121 to appropriate general fund balance to adjust the Law Enforcement Officer (LEO) Separation Allowance due to higher than anticipated supplemental retirement benefit expense in the amount of \$160,000. The budgeted amount is based on an estimate of expenses each fiscal year. A budget revision is needed due to the estimated actuals being more than was budgeted for FY22.

Please note this amendment requires appropriation of general fund balance.

Group Insurance Fund 801

3) Group Insurance and Retiree Health Insurance –Budget Ordinance Amendment B221106 to align the Group Insurance Fund budget with projected revenues and expenditures through FY22 in the amount of \$4,356,700

The Board is requested to approve Budget Ordinance Amendment B221106 to align the Group Health Insurance Fund budget with projected revenues and expenditures through FY22 in the amount of \$4,356,700. As previously presented to the Board of Commissioners, fiscal year 2022 claims costs increased significantly. The expenditure increases are offset by \$324,341 of additional revenue from pharmacy drug rebates, an increase of \$800,000 from departmental allocations for non-participating employees and vacant positions, and \$3,232,359 is an appropriation of group health insurance fund balance.

Please note this amendment requires appropriation of group health insurance fund balance.

Contingency Funds Report – General Fund 101

The County Manager approved the following use of contingency funds totaling \$42,000.

General contingency funds of \$42,000 were used to budget anticipated increase in the liability payable to the City of Fayetteville for the Franklin Street Parking Deck per the interlocal agreement.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

MOTION: Commissioner Council moved to approve consent agenda items 3.A.–3.I.
SECOND: Commissioner Stewart
VOTE: UNANIMOUS (6-0)

4. PUBLIC HEARINGS

A. Amendment of Subdivision and Zoning Ordinances to Eliminate Zero Lot Line Subdivision

BACKGROUND

At its regular meeting May 16, 2022, the board unanimously adopted a resolution to move forward the implementation of a moratorium to cease approval of zero lot line subdivision, or to amend the subdivision ordinance to eliminate zero lot line subdivision. Both options require a legislative hearing before the board can act. The notice of the legislative hearing was published in the Fayetteville Observer May 27 and June 3, 2022. The publisher's affidavit is not yet available but will be included in the agenda of the June 20, 2022, meeting as a permanent record. The publisher's confirmation of order is attached. After conducting the legislative hearing, the board may proceed with either the moratorium or the amendment.

The board should only proceed with the moratorium if it wishes for the joint planning board to consider this matter and make recommendations on the amendments of the subdivision ordinance. G.S. § 160D-604(c) authorizes the board to refer amendments of the subdivision ordinance to the planning board but does not require it. If the board wishes to receive recommendations from the planning board, it should adopt the moratorium ordinance attached hereto and direct the joint planning board to consider amendments to both the subdivision and zoning ordinances to eliminate zero lot line subdivision development.

If the board wishes to proceed with directly amending the subdivision ordinance to eliminate zero lot line subdivision development, it may do so by adopting the amendments to the subdivision ordinance and directing the planning board to recommend amendments to the zoning ordinance to make it consistent with the amendments to the subdivision ordinance. The subdivision and zoning ordinance amendments are treated differently under the statute. G.S. § 160D-604(b) requires the planning board to make recommendations on zoning ordinance amendments. The board is not bound by the recommendation of the planning board.

This is a legislative decision and board members can base their vote on any relevant experience, including the past rezoning cases the board has considered. The county attorney advises that if the board members are convinced it is in the best public interest to eliminate zero lot line development, there is no reason to implement a moratorium for the purpose of receiving planning board recommendations but, instead, adopt the amendments to eliminate zero lot line subdivision. If board does want recommendations from the planning board, then certainly adopt the moratorium ordinance for that purpose. Some options that might be considered instead of elimination of zero lot line subdivision are limiting the application of zero lot line subdivision by not allowing wetlands or land with hydric soils to be used as common area or not allowing zero lot line subdivision in zoning districts with large minimum lot sizes.

RECOMMENDATION / PROPOSED ACTION

The county attorney advises the board to adopt one of the following resolutions:

Implementation of the moratorium may be done by adopting the following resolution:

BE IT RESOLVED the board of commissioners hereby adopts the attached Ordinance Imposing a Moratorium on Zero Lot Line Subdivision and directs the Cumberland County Joint Planning Board to consider the concerns expressed therein by the board of commissioners and take such action as is necessary to recommend amendments to the subdivision and zoning ordinances to address those concerns.

OR,

Amendment of the subdivision ordinance may be done by adopting the following resolution:

BE IT RESOLVED the board of commissioners hereby adopts the attached Ordinance Amending the Cumberland County Subdivision Ordinance and directs the Cumberland County Joint Planning Board to take such action as is necessary to recommend amendments to the Cumberland County Zoning Ordinance consistent with the amendments to the subdivision ordinance.

Chairman Adams stated he felt there had been a lot of misinformation or miscommunication about this item involving zero lot line development. Chairman Adams stated the Board of Commissioners understands development will happen and they do not want to eliminate zero lot line subdivision development. Chairman Adams stated the Board of Commissioners' issue is that staff have been allowed to approve zero lot line subdivisions when the Board would prefer to have a process or ordinance conveying them the authority to approve/disapprove zero lot line subdivisions.

Chairman Adams called on Amy Cannon, County Manager, who explained the Board of Commissioners' procedures for public hearings.

This is the duly advertised and noticed public hearing set for this date and time.

Chairman Adams opened the public hearing.

The clerk to the board called the following speakers:

Lori Epler – Ms. Epler appeared as an opponent and stated zero lot line allows a property owner to subdivide property and deviate from the minimum lot sizes as long as the property does not exceed the density that would be allowed on the property if there were no problems with it. Ms. Epler stated zero lot line development is now critical to everyone and asked the Board not to rip away the most positive thing Cumberland County has to protect the investment of property owners who want to develop their land. Ms. Epler stated if the Board eliminates zero lot line, it has stolen from Cumberland County landowners the right to maximize their full investment on property already paid for. Ms. Epler asked the Board of Commissioners not to deviate from county processes and let staff and the Planning Board accomplish its goals in a more sensitive way.

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>

Amanda Smith – Ms. Smith appeared as an opponent and President of the Longleaf Pine Realtors Association and stated the dream of American homeownership has become a nightmare because we are in the worst housing shortage ever experienced. Ms. Smith spoke to home sales/the market in Cumberland County and stated the county cannot bear a moratorium or elimination of zero lot line development because the community needs more housing, not less. Ms. Smith stated realtors have been and always will be advocates for affordable housing and private property rights and desire to work with everyone to find a solution.

Jamie Godwin – Mr. Godwin appeared as an opponent and president of the Home Builders Association of Fayetteville and stated any moratorium or significant change to the development ordinance, particularly around zero lot line provisions that are utilized, will have a significant impact on builders being able to develop in Cumberland County. Mr. Godwin stated this affects sellers, builders, buyers and trade contractors that work on these projects. Mr. Godwin shared figures related to home building and stated if builders cannot build homes in Cumberland County, they will shift to surrounding areas that are more accommodating. Mr. Godwin asked for the opportunity for stakeholders to work with county staff in a deliberate manner rather than imposing a moratorium or rushing to a quick decision with an amendment to the development ordinance.

Neil Yarborough – Mr. Yarborough appeared as an opponent and stated whether or not there is to be zero lot line development, it should be part of an orderly transparent process with community involvement. Mr. Yarborough stated the county has benefited from zero lot line development for forty years and it was developed through a transparent community process, the same way land use plans have been developed. Mr. Yarborough stated according to the School of Government, this decision needs to be facilitated through community involvement which is what creates decisions that last. Mr. Yarborough stated in any land use decision, there will be people who are pleased and people who are disappointed but if the county goes through the process and people think they have a fair shake and it is a well-shaped deliberate decision, they will accept it. Mr. Yarborough asked that two letters he sent to the County Commissioners be included as part of the record. (See Attachments A and B.)

Chairman Adams closed the public hearing.

Chairman Adams stated the Board does necessarily want to get rid of zero lot line but rather adopt a moratorium ordinance pending staff study and recommendations. Chairman Adams stated the intent would be for stakeholders to have an opportunity for input as with each of the land use plans.

Commissioner Keefe stated at present, the process for zero lot line development is not brought before the Board of Commissioners but is approved at the staff level without commissioner input. Commissioner Keefe stated commissioners want to work on this, but it has to be in partnership with homebuilders. Commissioner Keefe stated he does not plan to support a moratorium because he believes everyone can get together and have something that works well.

MOTION: Commissioner Council moved to impose a 90-day moratorium on zero lot line and send to the Planning Board for the purpose of receiving Planning Board recommendations.

SECOND: Commissioner Stewart

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

Chairman Adams stated just so everyone understands, the Board is going to ask staff to look at the subdivision and zoning ordinances and bring recommendations back to the Board.

5. ITEMS OF BUSINESS

- A. Consideration of Offer to Purchase Surplus Property, Being 12.44 Acres of Vacant Land Located Adjacent to the Cape Fear River, Fayetteville

BACKGROUND

This is the offer the board tabled in April 2022 to review the minimum bid policy. The board has reviewed the minimum bid policy without taking further action. The county attorney has placed on the agenda as an item of business for the board to reconsider.

The county and City of Fayetteville acquired the real property with PIN 0446-33-1463, being 12.44 acres of vacant land located adjacent to the Cape Fear River, in Fayetteville, at a tax foreclosure sale in 2012 for a purchase price of \$14,368.98. The property is zoned SF6 with a tax value of \$62,000.00. Based on the GIS Mapping and the tax records, there is no structure on the land. The city conveyed its interest in the property to the county on July 8, 2020, by a quitclaim deed recorded in Book 10813 at Page 436. Elise Lamartiniere on behalf of Lughome Corporation has made an offer to purchase the property for \$14,368.98. 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 Elise Lamartiniere on behalf of Lughome Corporation. 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 NOTICE OF INTENT TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S. § 160A-269

Take notice that the board of commissioners finds the real property with PIN 0446-33-1463, being 12.44 acres of vacant land located adjacent to the Cape Fear River, in Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$14,368.98. 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.

Rick Moorefield, County Attorney, presented highlights of the background information recorded above.

MOTION: Commissioner Keefe moved to accept the offer to purchase surplus property, being 12.44 acres of vacant land located adjacent to the Cape Fear River in Fayetteville.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (6-0)

6. NOMINATIONS

- A. Animal Services Board (1 Vacancy)

Commissioner Stewart nominated Dennis Patterson.

- B. Board of Adjustment (1 Vacancy)

Commissioner Stewart nominated Linda Amos.

- C. Fayetteville-Cumberland Parks and Recreation Advisory Board (2 Vacancies)

Chairman Adams stated Harold Smelcer is requesting consideration to serve a third term because he feels he lost a year serving on the advisory board due to Covid. Commissioner Boose stated he received a similar call.

MOTION: Commissioner Boose moved to waive the Board of Commissioners' Rules of Procedure that limit appointments to two consecutive terms and nominate Harold Smelcer to a third term.

SECOND: Commissioner Keefe

VOTE: PASSED (5-1) (Commissioners Lancaster, Stewart, Adams, Boose and Keefe voted in favor; Commissioner Council voted in opposition)

Commissioner Stewart nominated Carl Blue.

7. APPOINTMENTS

A. Workforce Development Board

MOTION: Commissioner Stewart moved to appoint to the Workforce Development Board Dr. Mark Sorrells in the Representative of Education category and Jonette Quenum in the Representative of Labor category.

SECOND: Commissioner Bose

VOTE: UNANIMOUS (6-0)

Chairman Adams recessed the Board of Commissioner's meeting to conference room 564 at 9:40 a.m.

Chairman Adams reconvened the Board of Commissioners meeting in conference room 564.

8. CLOSED SESSION:

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

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

MOTION: Commissioner Lancaster moved to go into closed session for Economic Development Matter(s) Pursuant to NCGS 143.318.11(a)(4) and for Real Property Acquisition Pursuant to NCGS 143.318.11(a)(5).

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Keefe moved to come out of closed session.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (6-0)

MOTION: Commissioner Lancaster moved to adjourn.

SECOND: Commissioner Council

VOTE: UNANIMOUS (6-0)

There being no further business, the meeting adjourned at 11:05 a.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board

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May 31, 2022

Mr. Glenn Adams, Chairman
Board of Commissioners
Via Email: gadams@co.cumberland.nc.us

Mr. Charles Evans
Board of Commissioners
Via Email: cevans@co.cumberland.nc.us

Dr. Toni Stewart, Vice Chairwoman
Board of Commissioners
Via Email: tstewart@co.cumberland.nc.us

Mr. Jimmy Keefe
Board of Commissioners
Via Email: jkeefe@co.cumberland.nc.us

Mr. Michael C. Boose
Board of Commissioners
Via Email: mboose@co.cumberland.nc.us

Mr. Larry Lancaster
Board of Commissioners
Via Email: llancaster@co.cumberland.nc.us

Dr. Jeannette M. Council
Board of Commissioners
Via Email: jcouncil@co.cumberland.nc.us

RE: Legislative Hearing Time Limits

Dear Commissioners:

I am the attorney for the Longleaf Pine Realtors, Inc. and the Home Builders Association of Fayetteville. I also serve as an advisor to the Cumberland County Chapter of the North Carolina Society of Surveyors. My clients are aware that the Board of Commissioners has set a public hearing to consider the appropriateness of implementing a 90-day moratorium on permitting zero lot line subdivisions. The purpose of this letter is to request you eliminate the 10-minute total time restriction for hearing any objections to the adoption of such a moratorium.

The real estate industry in Cumberland County is one of the largest and most diversified employers in the County. There are more than a thousand people employed by realtors in Cumberland County, as brokers and support staff. Also, Cumberland County Homebuilders are numerous, but more importantly on the employment front, they utilize thousands of hard-working people in the various trades and suppliers that support their construction activities: plumbers, roofers, carpenters, HVAC installers, concrete providers, land developers, bankers, electricians and on and on.

Just as important, there is a housing shortage in Cumberland County, particularly an affordable housing shortage in Cumberland County. This is part of a national trend that our federal government is trying to develop a plan to address. One of the specifics of the current administration's plan is to provide financial incentives to local government to assist them in

Mailing Address: Post Office Box 705, Fayetteville, North Carolina 28302

eliminating "exclusionary land use and zoning policies [that] constrain land use, artificially inflate prices, perpetuate historical patterns of segregation and limit economic growth." This proposed moratorium action is in direct conflict with these goals.

Both of the County's 2010 and 2030 Land Use Plans place an emphasis on developing open spaces and preserving natural areas. The current zero lot line provisions in our Subdivision Ordinance promote these goals by most efficiently utilizing the usable land in our County while preserving large portions of natural or landscaped areas as open space within zero lot line subdivisions.

According to N.C. Gen. Stat. §160D-107, before adopting a land use moratorium, the Board of Commissioners, after the required notice, must hold "a legislative hearing." The North Carolina Court of Appeals citing David W. Owens, *Legislative Zoning Decisions* 53 (2d ed. 1999), held "the purpose of a legislative hearing is to secure **broad public comment** on the proposed action." [quotation marks in original; emphasis added]. Guilford Fin. Servs., LLC v. City of Brevard, 150 N.C. App. 1, 6, 563 S.E.2d 27, 31 (2002). Ten minutes does not meet that requirement.

As you can tell from the above, there is a broad spectrum of individuals, businesses, employees, home buyers and others which are affected by this proposed moratorium and 10 minutes is not adequate time for all of these types of people to present their concerns about this sudden regulatory imposition which will cause residential development to falter. The zero lot line subdivision provisions have been in place and actively used for many decades in Cumberland County. There is no need for such sudden action and certainly no reason not to give the public an ample opportunity to voice their opinions. After all: "The purpose of a legislative hearing is to solicit public opinion regarding the desirability of a policy to be chosen." David W. Owens, *Land Use Law in North Carolina*, p. 5, UNC School of Government.

As you can imagine from the correspondence or other contacts you have already received, there will be a lot of people at the meeting on June 6, 2022. (It is unfortunate for working people that it is not a night meeting.) However, to serve your constituents and to comply with the law, you should hear them out regardless of the time it takes.

Thank you for your consideration of this most important matter.

Yours truly,



GARRIS NEIL YARBOROUGH
Attorney at Law

GNV:kbb

cc: Rick Moorefield, County Attorney
Amy Cannon, County Manager
Rawls Howard, Planning and Inspections Director
Natalie Fryer, Executive Director, Home Builders Association of Fayetteville
Zan Monroe, Executive Director, Longleaf Pine Realtors
Mike Adams, Chapter President, North Carolina Society of Surveyors

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June 1, 2022

Mr. Glenn Adams, Chairman
Board of Commissioners
Via Email: gadams@co.cumberland.nc.us

Mr. Charles Evans
Board of Commissioners
Via Email: cevans@co.cumberland.nc.us

Dr. Toni Stewart, Vice Chairwoman
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Via Email: tstewart@co.cumberland.nc.us

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Board of Commissioners
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Dr. Jeannette M. Council
Board of Commissioners
Via Email: jcouncil@co.cumberland.nc.us

RE: Postponement of Moratorium Hearing

Dear Commissioners:

As an update from my letter of yesterday, my client group held a productive meeting with Tracy Jackson, Rawls Howard and another one of the County's Planning Staff members.

More to the point of this letter, I also received an individual response from one of your Board Members which we would like for you to consider. The part of interest to us reads as follows:

As you are aware, I am only 1 of 7 commissioners and do not and cannot speak on behalf of the elected full board. As a personal note, I fully agree with your position that the 10 minute limit is not sufficient to properly address this issue. I will propose that we change the 10 minute restriction. **Further, I would be in favor of setting this matter, as the sole agenda item, at a special, evening meeting of the Board to fully allow all to voice their views. I intend to propose such a motion.**

We appreciate Commissioner Boose's acknowledgement of the insufficiency of the 10-minute total time restriction. More importantly, we would request the Board to follow through with the tabling of the moratorium issue for the June 6, 2022 meeting and to set "this matter, as a sole agenda item, at a special, evening meeting of the Board to fully allow all to voice their views."

Mailing Address: Post Office Box 705, Fayetteville, North Carolina 28302

The provision under consideration by the Board of County Commissioners has been in effect for 40 years in Cumberland County with long-term investment decisions, and perhaps even estate plans, based on it. Any action on this long-standing, local principle of law does not need "emergency action". In fact, it needs careful consideration and development after input from all the necessary stakeholders.

As you can imagine from the volume of response you have already received regarding this matter, large numbers of people from the realtors, landowners, home builders, potential home buyers, tradesmen, local business people and others are planning on being in attendance at 9:00 a.m. on June 6, 2022. However, perhaps this turnout could be reduced if we received similar assurances as Mr. Boose's that the matter would be continued to a more appropriate time.

Please feel free to email me your individual position on tabling the matter and I will pass it along to my client group and other affected individuals so that we may plan our activities more constructively.

Thank you for your consideration of this most important matter.

Yours truly,



GARRIS NEIL YARBOROUGH
Attorney at Law

GNV:kbb

cc: Rick Moorefield, County Attorney
Amy Cannon, County Manager
Rawls Howard, Planning and Inspections Director
Natalie Fryer, Executive Director, Home Builders Association of Fayetteville
Zan Monroe, Executive Director, Longleaf Pine Realtors
Mike Adams, Chapter President, North Carolina Society of Surveyors
Eva Houston-Henderson, Chairman, Chamber of Commerce,
Government Relations Committee