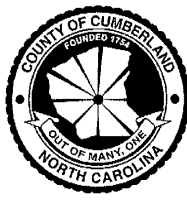


JIMMY KEEFE  
Chairman

JEANNETTE M. COUNCIL  
Vice Chairman

MARSHALL FAIRCLOTH  
KENNETH S. EDGE  
CHARLES E. EVANS  
BILLY R. KING  
EDWARD G. MELVIN



**CUMBERLAND**  
★ **COUNTY** ★  
NORTH CAROLINA

**BOARD OF COMMISSIONERS**

CANDICE WHITE  
Clerk to the Board

KELLIE BEAM  
Deputy Clerk

**MEMORANDUM**

TO: Policy Committee Members (Commissioners Evans, Faircloth, and Edge)

FROM: Kellie Beam, Deputy Clerk to the Board *KB*

DATE: August 30, 2013

SUBJECT: Policy Committee Meeting – September 5, 2013

**There will be a regular meeting of the Policy Committee on Thursday, September 5, 2013 at 10:30 AM in Room 564 of the Cumberland County Courthouse.**

**AGENDA**

1. Approval of Minutes – May 2, 2013 Meeting **(Pg. 2)**
2. Consideration of City of Fayetteville and Cumberland County Strategic Planning Session **(Pg. 11)**
3. Discussion Regarding Pinpoint and Draper Roads Right-of-Way Issues **(Pg. 12)**
4. Other Items of Business **(NO MATERIALS)**

cc: Board of Commissioners  
Administration  
Legal  
Communications Manager  
County Department Head(s)  
Sunshine List

CUMBERLAND COUNTY POLICY COMMITTEE  
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
MAY 2, 2013 – 10:30 A.M.  
MINUTES

MEMBERS PRESENT: Commissioner Charles Evans , Chairman  
Commissioner Marshall Faircloth

MEMBERS ABSENT: Commissioner Kenneth Edge

OTHER COMMISSIONERS

PRESENT: Commissioner Jeannette Council  
Commissioner Billy King  
Commissioner Ed Melvin  
Commissioner Jimmy Keefe

OTHERS PRESENT: James Martin, County Manager  
James Lawson, Assistant County Manager  
Rick Moorefield, County Attorney  
Sally Shutt, Chief Public Information Officer  
Dr. Lauby, Animal Control Director  
Tom Lloyd, Planning & Inspections Director  
Howard Abner, Assistant Finance Director  
Patti Speicher, Assistant Director for Municipalities  
Phyllis Jones, Assistant County Attorney  
Russ Rogerson, Fayetteville Regional Alliance  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Commissioner Evans called the meeting to order.

1. APPROVAL OF MINUTES – APRIL 4, 2013 MEETING

MOTION: Commissioner Faircloth moved to approve the minutes.  
SECOND: Commissioner Evans  
VOTE: UNANIMOUS (2-0)

2. DISCUSSION ON ECONOMIC DEVELOPMENT INCENTIVE  
AGREEMENTS AND CONTRACT FOR FUNDING ECONOMIC  
DEVELOPMENT ACTIVITIES

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Rick Moorefield, County Attorney, stated the current fiscal year's funding agreement with the Fayetteville-Cumberland Chamber of Commerce is in the amount of \$410,000. Mr. Moorefield stated the services provided under the contract are described as "economic development services covering staffing, retention, business development, marketing, etc". Mr. Moorefield stated the Chamber reported that \$40,000 of this money is used to fund the Chamber's contribution to the contracted services with the Ferguson Group. Mr. Moorefield further stated additional funding for the economic development activities of the Chamber is provided through separate contracts with the City of Fayetteville and PWC.

Mr. Moorefield stated the following four economic development incentive agreements have been approved by the Board of Commissioners, drafted by the County Attorney, executed by the chairman and delivered to the economic development office of the Chamber of Commerce since January 1, 2010:

### **MBM Hospitality, LLC:**

- Approved September 20, 2010
- To create 76 jobs by March 31, 2012
- First incentive payment due March 2014
- Agreement has not been returned to the county

### **Strategic Solutions Unlimited, Incorporated:**

- Revised agreement approved October 18, 2010
- To create 10 jobs by December 31, 2012
- First incentive payment was due March 2013
- No request for payment was received by the county

### **Nitta Gelatin USA, Inc.:**

- Approved November 5, 2012
- To create 6 jobs by December 31, 2014
- First incentive payment due March 2015
- Agreement has not been returned to the county

### **Raeford Road Partners, LLC, and Sykes Enterprises Incorporated:**

- Approved November 19, 2012
- To create 150 jobs by December 31, 2014
- First incentive payment due March 2015
- Agreement has not been returned to the county.

Commissioner Evans stated he has concerns with the way Cumberland County is currently doing business with the Chamber of Commerce. Commissioner Evans stated his two concerns are money and jobs.

Commissioner Faircloth stated there are currently three options to get jobs in Cumberland County: spend nothing and hope jobs come, start a new county department that deals

# DRAFT

with economic development or contract out with the one entity that handles economic development. Commissioner Faircloth stated until there is another entity that handles economic development he feels his only option is to support the contract with the Chamber of Commerce.

Commissioner King stated he does not feel like the Chamber's numbers and good numbers and asked if Cumberland County should change the way business is done or continue with the same procedure. Commissioner King stated jobs have not come in recent years and the county may need to re-evaluate the efforts the Chamber is making. Commissioner Council stated the county has been down this road before and no one is happy including the Chamber. Commissioner Council stated everyone is looking for a solution but times are tough right now. Commissioner Keefe stated he does not disagree with the county giving the Chamber funds on a merit system but if it needs to be across the board.

James Martin, County Manager, stated he agrees with everything he has heard and he is not satisfied with the number of jobs created but he personally feels the most optimistic with Russ Rogerson's involvement than in the past ten years. Mr. Martin stated the four economic development incentives mentioned earlier are not all of the jobs created in the community. Discussion followed.

Commissioner Evans stated this should be an ongoing discussion and no action will be taken at this time.

### 3. UPDATE ON STATUS OF OUTDOOR SHOOTING RANGE REGULATIONS

Mr. Moorefield stated there are no design criteria for outdoor shooting ranges in the county's zoning ordinance. Mr. Moorefield stated a zoning permit with site plan review is required because these are non-residential uses and planning staff has identified fourteen (14) outdoor ranges that are currently in operation within the county's jurisdiction. Mr. Moorefield stated most of these outdoor ranges were in existence prior to the date in 2005 when a permit was required for all non-residential uses and are not subject to the permit requirement. Mr. Moorefield stated there is one application for a permit currently pending for a tract of less than four (4) acres for use as a pistol range and the site contains no improvements designed to attenuate the noise.

Mr. Moorefield stated most of the complaints received about any of the outdoor ranges are for noise. Mr. Moorefield further stated there have also been some complaints about safety concerns by adjoining landowners.

Mr. Moorefield stated Planning and Inspections staff have developed and recommended comprehensive and stringent range design regulations patterned on those used by the U. S. Department of Energy. Mr. Moorefield stated the regulations have been considered by the Codes Committee of the Planning Board at two meetings held in March and April. Mr. Moorefield stated the Codes Committee has recommended that these regulations not

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be applied to clubs and lodges as defined in the Zoning Ordinance. Mr. Moorefield stated this is a broad exemption that may cover most of the uses but the recommendation has not been presented to the full Planning Board.

Mr. Moorefield stated due to the timing of the advertising requirements for the public hearing that will be required to adopt the regulations, he is requesting permission to advertise a public hearing to be held at the May 6, 2013 meeting of the Board of Commissioners to consider imposing a moratorium of sixty (60) days duration for the issuance of any further permits for outdoor shooting ranges. Mr. Moorefield stated the Board of Commissioners would have until the second meeting in June to adopt some level of regulation of these ranges which can be modified by the Board of Commissioners at a later date if necessary.

Commissioner Faircloth stated this item is for information only and no action is needed at this time.

#### 4. CONSIDERATION OF APPROVAL OF FEDERAL ADVOCACY PARTNERSHIP MOU

Sally Shutt, Public Information Director, stated Cumberland County, the City of Fayetteville and the Fayetteville Regional Chamber have a federal advocacy partnership that has worked collaboratively through a contracted lobbying firm to pursue federal funding for projects identified in an annual, collectively established federal agenda. Ms. Shutt stated the partnership has developed a new Memorandum of Understanding to more effectively respond to the new federal funding paradigm, which reflects a change in focus from legislative earmarks to administrative allocation through competitive grants.

MOTION: Commissioner Faircloth moved to recommend to the full board approval of the Federal Advocacy Partnership Memorandum of Understanding as presented.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (2-0)

#### 5. CONSIDERATION OF APPROVAL OF AMERICANS WITH DISABILITIES ACT POLICY

Phyllis Jones, Assistant County Attorney, stated Title II of the Americans with Disabilities Act (ADA) of 1990 requires the county not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. Ms. Jones stated as a local government employer with over fifty (50) employees, Cumberland County is required to designate an employee to oversee its compliance with the ADA, establish grievance procedures, and provide notice to the public of Title II's requirement and its applicability to the county's services, programs and activities.

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Ms. Jones stated prompted by a citizen inquiry, a committee of staff including Sally Shutt, Chief Public Information Officer, John Holmes, ADA Coordinator and Phyllis Jones reviewed the county's compliance with the requirements and drafted a policy which incorporates the information required to be in the notice and identifies the ADA compliance officer. Ms. Jones stated adoption of the policy will allow for its posting on the county's website and dissemination to the public in other written communication so that interested persons will know the county is aware of and acknowledges its responsibility to this regard.

Ms. Jones discussed the following proposed Americans with Disabilities Act Policy:

## AMERICANS WITH DISABILITIES ACT Policy

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), Cumberland County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

*Employment:* Cumberland County does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

*Effective Communication:* Cumberland County will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in county programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

*Modifications to Policies and Procedures:* Cumberland County will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in county offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Cumberland County, should contact the ADA Coordinator (listed below) Monday - Friday 8:00 am to 5:00pm as soon as possible but no later than 48 hours before the scheduled event

John F. Holmes, ADA Coordinator

# DRAFT

Cumberland County Human Resources Office  
117 Dick Street, Lower Level, Room 15  
P.O. Drawer 1829  
Fayetteville, North Carolina 28302-1829

Telephone Number (910) 678-7656

Email: [jholmes@co.cumberland.nc.us](mailto:jholmes@co.cumberland.nc.us)

TDD Telecommunication Unit for the Deaf (910) 678-7659.

The ADA does not require the Cumberland County to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of Cumberland County is not accessible to persons with disabilities should be directed the ADA Coordinator.

Cumberland County will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

## Cumberland County Grievance Procedure under the Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Cumberland County. The county's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

# DRAFT

John F. Holmes, ADA Coordinator  
Cumberland County Human Resources Office  
117 Dick Street, Lower Level, Room 15  
P.O. Drawer 1829  
Fayetteville, North Carolina 28302-1829

Telephone Number (910) 678-7656

Email: [jholmes@co.cumberland.nc.us](mailto:jholmes@co.cumberland.nc.us)

TDD Telecommunication Unit for the Deaf (919) 678-7659.

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Cumberland County and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or his designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the County Manager or his designee.

Within 15 calendar days after receipt of the appeal, the County Manager or his designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the County Manager or his designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator or his designee, appeals to the County Manager or his designee, and responses from these two offices will be retained by the Cumberland County for at least three years.

MOTION: Commissioner Faircloth moved to recommend to the full board approval of the Cumberland County Americans with Disabilities Act Policy as presented.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (2-0)

## 6. OTHER MATTERS OF BUSINESS

Dr. Lauby, Animal Control Director, provided a memorandum to the Policy Committee that lists changes to the current Animal Control Ordinance that he would like to see



## DRAFT

implemented. Dr Lauby stated he feels the changes are necessary to better protect and serve the citizens.

Dr. Lauby proposed the following changes:

3-10 Definitions – New definitions for breeding/show/hunting dogs – Dog owners who have many animals are looking for a way to not pay license fees.

Nuisance, Nuisance/Reckless Owner – Nuisance definition clarified.  
Reckless owner definition required.  
Temporary Tether Permit/Special Tethering Permit.

3-15 – Nuisance – Currently reads that owner has 72 hours to correct the problem. Need to shorten time allowed to fix the problem, requesting change to 24 hours after issuance of written warning of violation.

3-22 – Spaying or Neutering – Currently reads that all adopted animals will be spayed or neutered, request to change to include that all roaming, at large, dangerous dogs, and potentially dangerous dogs get altered.

Was in the ordinance for years but never enforced. A better solution would be to enforce the ordinance. 765 bite reports last year. 300+ non-reported. Statistics show 80+ are done by non-neutered dogs. Animal Control Director can make a onetime exception for breeding, show and hunting dogs.

3-23 – Tethering ordinance reads that no dog shall be tethered outside. Request to change by citizen for the need for dogs that dig out, jump, climb or otherwise can't be restrained on the owners' property.

3-27 – Sanitation – People walk dogs and allow them to defecate on citizens' property and walk away and leave the mess for the owner to clean up.

3-28 – Breed/Advertise/Transfer permit. For one dog to breed to another dog. One cat to breed to another cat.

3-29 – Nuisance/Reckless Owner (NRO) – When cited as NRO they can no longer harbor, feed or maintain animals for 36 months. Nuisance or dangerous dog owners give us the dogs and do not pay their fines and get new animals and continue to cause the same problem in our county.

3-33 (h) – The Animal Control Director may reevaluate a potentially dangerous dog after a one year period and modify the declaration if the animal has completed a dog obedience class, and an AKC good citizen certification.

3-79 – Inspections, Interference or Concealment – Improve descriptions.

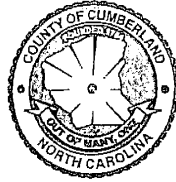
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MOTION: Commissioner Faircloth moved to direct legal staff to review the proposed amendments and assist Dr. Lauby with a draft ordinance to be considered by the Board of Commissioners as soon as possible.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (2-0)

MEETING ADJOURNED AT 11:50 AM



CUMBERLAND  
COUNTY  
NORTH CAROLINA

CHARLES EVANS  
COUNTY COMMISSIONER – AT LARGE

MEMORANDUM

TO: Board of County Commissioners

FROM: Charles E. Evans, County Commissioner *CE*

DATE: August 16, 2013

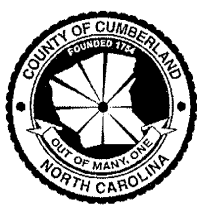
SUBJECT: Fayetteville City and Cumberland County Strategic Planning Session

On August 15, 2013, I met with Fayetteville City Manager Ted Voorhees, and during the conversation, I mentioned to him that we should have a City and County strategic planning session to formulate ideas about how the City and County could work together. I would like to see this joint strategic planning session materialize for the betterment of the citizens of Fayetteville and Cumberland County.

I am not aware of whether the Board of County Commissioners has ever considered this idea, but my hope is that we would give it consideration and discuss the possibilities. It would create, I believe, a better relationship between the City and the County and would contribute to our community's future growth and development.

Thank you for your attention to this matter. It is just an idea. My hope is that this idea, if it hasn't been considered before, will be discussed in the very near future.

RICKEY L. MOOREFIELD  
County Attorney



PHYLLIS P. JONES  
Assistant County Attorney

**OFFICE OF THE COUNTY ATTORNEY**

5<sup>th</sup> Floor, New Courthouse • PO Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829  
(910) 678-7762

**MEMO FOR THE AGENDA OF THE SEPTEMBER 5, 2013  
MEETING OF THE POLICY COMMITTEE**

**TO:** Policy Committee; Co. Manager  
**FROM:** Co. Atty. *R. Moorefield*  
**DATE:** August 29, 2013  
**SUBJECT:** Possible County Action to Improve Draper and Pinpoint Roads

**Requested by:** Policy Chair Evans                      **Estimate of Committee Time Needed:** 20 mins.

**BACKGROUND:**

Pinpoint and Draper Roads are connected private roads located off Clinton Road near the Vander Community. These roads are in very poor condition and appear to be impassable after heavy or prolonged rainfall. The roads serve 31 parcels. From the aerial photo, it appears that about half of these parcels contain dwellings. At the request of Commissioner Evans, in 2012 the county attorney’s office sent information and forms to all parcel owners by which the owners could indicate their willingness to donate right of way in order for DOT to place the roads on the State system. Ten parcel owners responded that they were willing to donate the needed right of way. In order to proceed with the DOT procedures to add the roads to the State system, at least 75% of the parcel owners had to be willing to donate the right of way. Using the process by which the property owners donate right of way appears not to be an option.

Draper Road crosses the CSX railroad right of way that runs parallel to Clinton Road. DOT has advised the county attorney that CSX will not permit any improvements in its right of way unless DOT closes three other at-grade rail crossings in Cumberland County. This makes it impossible for that portion of the road to be brought into the State system.

Commissioner Evans asked the county attorney to research whether the county has authority to condemn the right of way necessary to bring these roads into the State Highway System.

A summary of the law governing a county’s authority with respect to the condemnation of rights of way for roads follows:

- I. General Condemnation Powers.  
Neither cities nor counties are granted the general authority to condemn lands for rights of way for roads or streets. Cities are granted the authority to condemn land for the purposes of opening, widening, extending or improving roads and streets. Counties are not granted this power. This statute states that the authority granted thereunder (to cities only) is in addition to the authority to acquire rights of way under Article 9 of Chapter 136. Article 9 is entitled *Condemnation* and is in Chapter 136, Transportation. N. C. Gen. Stat. § 40A-3(b)(1).

II. Chapter 136 Condemnation Authority of Counties.

Chapter 136 establishes the authority and responsibilities of the State Department of Transportation and local governments for the State's transportation system, which includes all roads owned by the State. Chapter 136 grants the following authority to counties:

§ 136-51 – Counties may participate in the cost of rights of way, construction, reconstruction, improvement or maintenance of a road on the State highway system with agreement of the DOT.

§ 136-51 – Counties may condemn right of way and make improvements to portions of the State highway system using local funds.

§ 136-66.3(e) – Counties may reimburse DOT for costs of improvements and right of way for projects approved by the Board of Transportation.

§ 136-66.3(g) – Counties may exercise the DOT powers of condemnation to acquire right of way for any State street, highway or transportation project.

III. Other County Authority.

§ 136-66.3(e) – The Board of Commissioners may request DOT to place neighborhood public roads in a passable condition without incorporating them into the State system and without becoming obligated for the permanent maintenance. DOT is not required to do this. Pinpoint and Draper Roads appear to meet the statutory definition of neighborhood public roads which is:

... all other roads or streets or portions of roads or streets whatsoever outside of the boundaries of any incorporated city or town in the State which serve a public use and as a means of ingress or egress for one or more families, regardless of whether the same have ever been a portion of any State or county road system, are hereby declared to be neighborhood public roads ...

OPINION:

The county does not have the authority to condemn the right of way for these roads except in conjunction with an agreement with DOT that DOT will accept these roads into the State system. DOT does not condemn right of way in order to bring private roads into the State system, thus any such agreement would require the county to pay the costs of the condemnation.

Due to the cost of the condemnation and the necessity to consider additional private roads after establishing this precedent, the county attorney advises that a request to DOT for placing the roads in a passable condition as neighborhood public roads is likely the only assistance the county can provide. This may also require that litigation be commenced against those property owners who are opposed to the improvements and if DOT elects to proceed, it would likely require the county to bring these actions.

**RECOMMENDATION/PROPOSED ACTION:**

Consider whether to recommend any action to the Board of Commissioners.