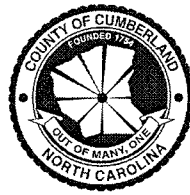


JEANNETTE M. COUNCIL
Chairman

KENNETH S. EDGE
Vice Chairman

CHARLES E. EVANS
MARSHALL FAIRCLOTH
JIMMY KEEFE
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, Keefe, and Melvin)

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

DATE: October 31, 2014

SUBJECT: Policy Committee Meeting – November 6, 2014

The regular meeting of the Policy Committee scheduled for Thursday, November 6, 2014 at 10:30 a.m. has been CANCELLED and rescheduled as a special meeting for Thursday, November 6, 2014 at 10:00 a.m. in room 564 of the Cumberland County Courthouse located at 117 Dick Street.

AGENDA

1. Approval of Minutes – September 4, 2014 Regular Meeting **(Pg. 2)**
2. Consideration of Approval of a Request to Modify the Civic Center Commission Membership **(Pg. 12)**
3. Reconsideration of Economic Development Incentives Agreement for MBM Hospitality, LLC **(Pg. 23)**
4. Reconsideration of Economic Development Incentives Policy **(Pg. 27)**
5. Discussion of Information Related to the Affordable Care Act (ACA) in the Detention Center **(Pg. 37)**
6. Other Items of Business **(NO MATERIALS)**

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

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ITEM NO. 1

CUMBERLAND COUNTY POLICY COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
SEPTEMBER 4, 2014 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Jimmy Keefe, Chairman
Commissioner Charles Evans (arrived at 11:45 a.m.)
Commissioner Ed Melvin

OTHER COMMISSIONERS
PRESENT:

Chairman Jeannette Council
Commissioner Marshall Faircloth
Commissioner Kenneth Edge
Commissioner Billy King

OTHERS PRESENT:

Amy Cannon, County Manager
James Lawson, Deputy County Manager
Rick Moorefield, County Attorney
Sally Shutt, Governmental Affairs Officer
Melissa Cardinali, Assistant County Manager for Finance/
Administrative Services
Buck Wilson, Public Health Director
Rod Jenkins, Deputy Public Health Director
Julean Self, Human Resources Assistant Director
Randy Beeman, Emergency Services Director
Jody Risacher, Library Director
Austin Keating, Child Support Director
Chris Frank, Chairman of the Board of Health
Jay Barr, Chairman of the Wrecker Review Board
Rob Hasty, Assistant County Attorney
Vicki Evans, Finance Accounting Manager
Ockidde Harris, CTG Coordinator
Johnny Chance, Wrecker Operator
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Keefe called the meeting to order.

1. APPROVAL OF MINUTES – MAY 8, 2014 REGULAR MEETING

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

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2. CONSIDERATION OF APPROVAL OF REVISION TO RULE 24 OF “WRECKER AND TOW SERVICE RULES AND REGULATIONS”

BACKGROUND:

County Ordinance 9-64 states “The Board of Commissioners from time to time, may adopt such regulations and rules as deemed advisable for the administration of this article, whether on recommendation of the Wrecker Review Board or on the initiative of the Board of Commissioners.”

The Wrecker Review Board recommends that Rule 24 be revised as follows to make it more uniform with the Rules and Regulations with the City of Fayetteville Wrecker Review Board and to assist in securing payment for towing services.

- Current Rule 24: Upon request or demand, the rotation wrecker companies will return personal property stored in or with the vehicle, whether or not the towing, repair, or storage fee on vehicle has been or will be paid. Personal property for the purposes of this provision includes any goods, wares, freight or any other property not requiring tools to remove from the vehicle.
- Proposed Rule 24: Upon request or demand, and proof of ownership or right to possession, the rotation wrecker operators shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid, with the exception that medicines and pocketbooks/wallets shall be returned to the owner upon request or demand whether or not the towing fee has been or will be paid. Rotation wrecker operators may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

RECOMMENDATION:

The Wrecker Review Board recommends that Rule 24 be revised.

Rob Hasty, Assistant County Attorney, reviewed the background information and recommendation as recorded above and responded to questions.

Jay Barr, Wrecker Review Board Chairman, stated the Wrecker Review Board is requesting a revision to Rule 24 to protect wrecker companies against unwarranted expenses. Mr. Barr stated vehicles are currently being abandoned after having been towed to wrecker companies and can sit on their lots for up to a year before the wrecker company is able to dispose of them.

Johnny Chance, wrecker operator in attendance, stated the City of Fayetteville requires that individuals pay for the initial tow bill before they can obtain their personal belongings so that the wrecker company is able to recoup some money at that time. Mr.

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Barr explained as long as the individual pays their initial tow bill, they will be able to obtain their personal property and under the proposed rule can obtain medicines and pocketbooks/wallets regardless of whether they pay the tow bill.

Commissioner Melvin stated he cannot support the proposed rule as presented because he does not feel it is right to hold items such as a work computer. Commissioner Council stated she needs to know how personal property is defined before she can support the proposed revision. Commissioner Keefe stated any decision by the Policy Committee needs to be defensible. Commissioner Edge stated although the rule is weak and needs to be revised, he does not agree with the revision as presented.

Commissioner Keefe asked whether the Wrecker Review Board would be satisfied if the County's policy mirrored the City of Fayetteville's policy. Mr. Barr stated the Wrecker Review Board meets quarterly but can call a special meeting if necessary to discuss bringing back a new proposal to the Policy Committee. Mr. Moorefield explained the City of Fayetteville's rule is like the County's current rule with the exception that the City of Fayetteville requires payment of the tow bill before any personal property can be removed. Mr. Hasty read both the City of Fayetteville's rule and the proposed rule of the Wrecker Review Board.

Consensus of the Policy Committee was to have the Wrecker Review Board come back at a later date with another proposal.

3. PRESENTATION ON SMOKE-FREE OPTIONS

BACKGROUND:

County Manager Amy Cannon requested County Attorney Moorefield to draft amendments to the Smoking Ordinance to expand its coverage to include electronic cigarettes. County Manager Amy Cannon will address the need for the requested amendment. When drafting the amendment, County Attorney Moorefield determined that the implementation and enforcement sections needed further amendment.

RECOMMENDATION/ACTION REQUESTED:

Consider the proposed amendments to the Smoking Ordinance.

Buck Wilson, Public Health Director, stated the Board of Commissioners and the Board of Health put a smoking ordinance in place as of September 1, 2014. Mr. Wilson stated at a Board of Health meeting, Commissioner King asked what the County was doing to help Breast Cancer rates. Mr. Wilson stated he suggested the possibility of expanding the smoking ordinance. Mr. Wilson stated once the Board of Health knows the Commissioners supports expansion of the smoking ordinance, they will develop recommendations to return to the full Board.

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Ockidde Harris, CTG Coordinator, reviewed the following information:

The Challenge:

Cumberland County employees and citizens visiting County buildings and grounds have been awarded protections from the dangers of secondhand smoke exposure through Chapter 9.5, Article VII, Sec. 9.5-93 of the Cumberland County Code. Unfortunately, employees and citizens working in and/or visiting municipal buildings, municipal grounds (including parks and recreation areas), or indoor public places, are not guaranteed these same protections. These unprotected individuals are at increased risk of premature death and disease including cancer, asthma attacks, and heart disease.

Health Considerations:

- Scientific evidence indicates that there is not a safe level of exposure to secondhand smoke
- The leading causes of death in Cumberland County are heart disease, cancer, and lower chronic respiratory disease, all of which have tobacco use as one of the leading risk factors
- Lung cancer is the leading cause of cancer death with smoking being the root cause for 90% of lung cancer deaths in men and 80% of lung cancer deaths among women
- Emergency room visits by North Carolinians experiencing heart attacks have declined by 21% since Jan 2010 start of the Smoke-Free Restaurant and Bar Law
- Outdoor exposure to tobacco smoke can be high, especially when someone is near a smoker, such as when sharing a bench or pushing a child on a swing
- Children exposed to secondhand smoke are at increased risk for acute respiratory infections, asthmas attacks and ear problems.

Economic Considerations:

- Annual healthcare costs in NC caused by smoking are estimated at \$2.46 billion with secondhand smoke costing \$288.8 million
- The NC Restaurant and Lodging Association reports the smoking ban has had a positive impact on restaurant sales since the law's implementation.
- An unhealthy population generates costs in preventable health care expenditures, higher premiums from insurance companies and health care cost to business, and greater public expenditures on Medicaid and Medicare
- Businesses want to locate to regions with healthier populations because their costs are lower and productivity is higher

The Solution:

The Board of Health and County Commissioners have the authority to protect workers, visitors, and residents from secondhand smoke exposure and create healthy social norms. Local governments can provide safe and healthy environments, both indoors and out, as well as reduce health care costs for all Cumberland County citizens, employees, and visitors by creating smoke-free environment.

Areas where smoking can be restricted include:

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- All County and Municipal buildings, vehicles, and grounds including playgrounds, trails and athletic fields
- Bus Stops
- Sidewalks that are maintained by the County or Municipality
- Public Transportation
- Common areas of multi-unit residential facilities/buildings
- Office, retail, and other commercial establishments where the public is invited or permitted

Questions and discussion followed.

Rick Moorefield, County Attorney, advised the current ordinance simply prohibits the smoking of tobacco and does not regulate electronic cigarettes because electronic cigarettes are not cigarettes as contemplated by the ordinance, do not produce smoke, and do not combust tobacco. Mr. Moorefield stated he recommends that the enforcement provisions in Sections 9.5-95 and 9.5-96 be amended to clarify the amendment's authority and penalties. Mr. Moorefield stated the following amendments would accomplish management's recommendation to regulate electronic cigarettes and his recommendations to clarify the language in the enforcement authority and penalties provisions:

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 9.5, ARTICLE III, SMOKING, OF THE CUMBERLAND COUNTY CODE

WHEREAS, Cumberland County adopted an ordinance regulating tobacco smoke in 1993; and

WHEREAS, Cumberland County's smoking ordinance was amended by actions taken by its Board of Commissioners May 6, 2013, and March 17, 2014; and

WHEREAS, the Board of Commissioners finds that electronic cigarettes, also referred to as E-cigarettes, and other devices used as systems for the delivery of nicotine are now being used as substitutes for cigarettes and other devices for smoking tobacco; and

WHEREAS, these devices for the delivery of nicotine are not regulated by the County's smoking ordinance as amended through March 17, 2014; and

WHEREAS, the Board of Commissioners finds that use of these devices for the delivery of nicotine within public buildings and grounds has become an annoyance, a nuisance, and a health concern to the employees working within these public buildings and the citizens conducting business in these public buildings much as secondhand tobacco smoke did before smoking was prohibited; and

WHEREAS, the Board of Commissioners finds the further amendment of the County's smoking ordinance to regulate the use of electronic cigarettes and similar devices for the

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delivery of nicotine within public buildings and upon the grounds of public buildings, to be in the public interest and to promote health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 9.5, Article III, Smoking, of the Cumberland County Code is hereby designated as Chapter 9.5, Article IIIA, Smoking, of the Cumberland County Code.

The existing language in Section 9.5-90 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is designated as subsection “a” and subsection “b” is added to this section to read as follows:

(b) The Board of County Commissioners further finds that the increasing use of electronic cigarettes, also known as E-cigarettes, within public buildings and upon the grounds of public buildings has become an annoyance, a nuisance, and a health concern to the employees working within these public buildings and the citizens conducting business in these public buildings much as secondhand tobacco smoke did before smoking was prohibited by this article. The further purpose and intent of this article is to promote the public health, safety and general welfare by prohibiting the use of electronic cigarettes and similar nicotine delivery devices to the same extent that cigarettes and devices for smoking tobacco are prohibited.

Section 9.5-91 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended by adding the following to the definition of *smoke or smoking*:

(4) The use of any electronic cigarette, E-cigarette or any device for the delivery of nicotine through a vaporization process with or without the combustion of any plant material, and with or without the emission of any smoke or vapor.

Subsection 9.5-95(b) of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

(b) The person in charge of any area where smoking is prohibited by this article, or the designee of such person, shall direct a person who is smoking to cease and, if the person does not comply, shall contact the enforcement officer for the County. The enforcement officer shall be designated by the Board of County Commissioners.

Section 9.5-96 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

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(a) *Penalty for Violation.* Following a directive to cease smoking issued by any deputy sheriff or any person duly authorized pursuant to subsection 9.5-95(b) of this article, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50).

(b) *Enforcement.* The designated enforcement officer or deputy sheriff shall cause a citation to be served upon the violator stating the nature of the violation, the amount of the penalty, and directing that the violator shall pay the penalty to the County tax collector's office within fourteen (14) days of receipt of the citation. If the violator does not pay the penalty as directed, the violation shall be prosecuted as an infraction in accordance with G.S. § 130A-498(c1).

(c) *Additional sanctions for employees.* In addition to any other penalty under subsection (a), employees of the County who violate this article shall be subject to disciplinary action in accordance with the County's Personnel Ordinance and policies.

Section 9.5-98 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

This article as amended by action of the Board of Commissioners shall be effective upon adoption of the amendments.

In response to questions posed by Committee members, Mr. Moorefield advised the prohibition on electronic cigarettes could be applied only within county buildings.

After further discussion, consensus of the Policy Committee was to wait for further information and clarification of the recommendations as part of a more comprehensive review of the ordinance.

4. CONSIDERATION OF NCACC LEGISLATIVE GOALS RECOMMENDATIONS

BACKGROUND:

The North Carolina Association of County Commissioners (NCACC) has outlined its state legislative goals development process for the 2015-2016 biennial sessions and set a September 19, 2014, deadline for counties to submit their legislative proposals to the association for consideration.

As part of Cumberland County's process, we asked the Leadership Team to submit their recommendations and have compiled the attached list for your consideration. Your

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recommended goals will go to the full Board of Commissioners for approval at the September 15, 2014 meeting.

RECOMMENDATION/PROPOSED ACTION:

Consider the goals as recorded and make a recommendation to the full Board of Commissioners for approval of the County's state legislative goals to be forwarded to the NCACC by the September 19, 2014 deadline.

Sally Shutt, Governmental Affairs Officer, reviewed the background information and recommendation as recorded above and responded to questions. Ms. Shutt then presented the following proposed goals:

Child Support Goals - (Submitted by Child Support Director Austin Keating)

- Oppose the state retaining a portion of the federal Child Support incentive money that has been going to counties. The General Assembly has a section titled Program Evaluation Division, which released Report Number 2014-08 on July 16, 2014, titled "Revising State Child Support Incentive System Could Promote Improved Performance of County Programs." The report recommends the General Assembly do the following:
 - Direct the CSS State Office to retain 25 percent of federal incentive money to:
 - Improve centralized services
 - Provide employee incentive bonuses
 - Direct counties to:
 - Report how incentive payments are being reinvested based on guidelines from the CSS State Office
 - Maintain county expenditures for child support services

If the State Office of Child Support retains 25 percent of incentives from the federal government that currently go to the counties, this will put added cost back on the county. Reinvesting federal incentives is not an issue for counties that have out-of-pocket expenses to operate their Child Support programs.

Department of Public Health Goals - (Submitted by Health Director Buck Wilson)

- Restore State support for accreditation program for local health departments:
 - NCG.S. 130A-34.1 requires all local health departments to obtain and maintain accreditation in accordance with this section. Local county health departments must pay \$2,750 per year. Health Departments had to receive initial accreditation by December 31, 2014, and must maintain accreditation every four years.
- Oppose weakening of smoke-free restaurant and bars law. This was included in last year's NCACC goals and continues to be an important public health issue.
- Support raising the state tax on tobacco, including electronic cigarettes to the national average. It is proven that increasing state tax on tobacco results in less children

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smoking. Additional tax dollars are assigned to the state of North Carolina in which the legislators will decide how to utilize the increased revenue.

- Support using Tobacco Master Settlement funds for public health to provide evidence-based tobacco prevention and cessation programs.
- Prioritize sustainability of State Local Aid to County funds for Local Health Departments. The Local Aid to county funding is the only non-categorical allocation by the state to local health departments. This flexible funding is intended to address locally identified gaps in services and community needs. Cumberland County Department of Public Health receives \$233,180 of State Local Aid to County funds. Examples of how these funds are used for include:
 - Environmental Health Specialists, which are required positions
 - Additional training for staff
 - Mobilize community partnerships to identify and solve health problems
 - Monitor health status to identify health problems

Department of Social Services Goal: *(Submitted by Social Services Director Brenda Jackson)*

- Rescind the 10 percent increase in co-payments for all households receiving childcare subsidies and restore the proration of child care subsidy co-payments.
 - With 10 percent increase in co-payments presents a financial hardship for parents and caregivers, which could prevent children from receiving childcare subsidies. The impact could lead to lack of proper supervision of children, an increase in latch key children and a reduction in early education opportunities for children, which also increases incidents of child neglect.

Mental Health Goal: *(Submitted by Commissioner Kenneth Edge)*

- Support the public behavioral health managed care organization model currently in place.
 - As the General Assembly considers options for reshaping the state's Medicaid system, it is in the best interest to maintain the current MCO model. The LME/MCO's across the state are proving to be highly effective in responding to their mandates to ensure high-quality services while containing costs. This has produced Medicaid budget predictability on the behavioral health side and \$153 million in system savings since the implementation of MCO operations statewide.

Library Goals: *(Submitted by Library Director Jody Risacher)*

- Restore funding to State Aid to Public Libraries Fund to the pre-2011 level of \$15.7 million; and eliminate special provisions that distribute State Aid outside of the equitable formula developed by the State Library Commission.
 - Public libraries are critical contributors to local workforce development by providing access to computers, job search assistance, small business support, and help with educational goals. Free early literacy programs and materials ensure that all children can attain the skills needed for success in the formal classroom. Summer activities counter the "summer slide"

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during which school-age children lose reading skills. Public libraries are integral to our communities as centers of lifelong learning accessible to all citizens.

- Support for public libraries is a matter of state policy as described in GS125-7. The State Aid fund supplements, but does not replace, local funding and is distributed to the 80 library systems by a population and per capita income based formula developed by the State Library Commission. As such, State Aid is a critical component of each library's operating budget, especially for regional library systems that serve multi-county areas.
- The state budget includes the following –
 - Cap Grants from State Aid to Libraries Fund Section 19.2 the Department of Cultural Resources shall not allocate a grant to any municipal or single-county library from the Aid to Public Libraries Fund that exceeds four hundred thousand dollars (\$400,000) for the 2014-2015 fiscal years.

MOTION: Commissioner Keefe moved to recommend to the full board consideration of approval of the County's state legislative goals to be forwarded to the NCACC by the September 19, 2014, deadline.

SECOND: Commissioner Melvin

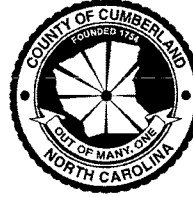
VOTE: UNANIMOUS (3-0)

5. OTHER ITEMS OF BUSINESS

There were no other matters of business.

MEETING ADJOURNED At 12:00 PM

RICKEY L. MOOREFIELD
County Attorney



PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

5th Floor, New Courthouse • P.O. Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829
(910) 678-7762

**MEMO FOR THE AGENDA OF THE NOVEMBER 6, 2014
MEETING OF THE POLICY COMMITTEE**

TO: Policy Committee; Co. Manager
FROM: Asst. Co. Atty., *Phyllis Jones*
DATE: March 28, 2014
SUBJECT: Modification of the Number of Citizens on the Civic Center Commission

Requested by: Commissioner Keefe

Estimate of Committee Time Needed: 5 mins.

Background

In 1991, the North Carolina General Assembly enacted a law creating the Cumberland County Civic Center Commission. The legislation provided for a 16-member board: the County Manager serving in an ex officio and nonvoting capacity and 15 citizens appointed by the BOC. The Civic Center Commission has requested the BOC not fill the six seats on the Commission that are due to expire on January 1, 2015. The Commission also requests that the BOC requests the local delegation to the General Assembly submit a bill to reduce the number of citizens on the Commission from fifteen to nine. See the attached minutes of the September 2014 meeting of the Commission and the letter from George Turner, Chair of the Commission.

RECOMMENDATION

The Policy Committee recommends the BOC honor the request of the Civic Center Commission.



MEMORANDUM FOR THE BOARD OF COMMISSIONERS AGENDA OCTOBER 20, 2014

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: GEORGE TURNER, CHAIRMAN
CUMBERLAND COUNTY CIVIC CENTER COMMISSION**

DATE: OCTOBER 4, 2014

**SUBJECT: REQUEST TO MODIFY THE CIVIC CENTER COMMISSION
MEMBERSHIP**

.....

BACKGROUND:

At the Tuesday, September 30, 2014 meeting, the Cumberland County Civic Center Commission took action approving a motion to present a request to the Board of County Commissioners to not fill the six (6) upcoming vacancies on the Civic Center Commission, due to expire on January 1, 2015, and to have a charter revision submitted to the General Assembly modifying the commission's membership to consist of nine (9) members; thereby, proportionately aligning the Commission with the recommendation provided in the June 2013 Johnson Consulting, Inc. Performance Audit.

RECOMMENDATION/PROPOSED ACTION:

1. Approve the request to not fill the six (6) upcoming vacancies which expire on January 1, 2015.
2. Submit a charter revision to the General Assembly modifying the commission's membership to nine (9) members

cc: County Attorney's Office

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CUMBERLAND COUNTY CIVIC CENTER COMMISSION
SPECIAL MEETING MINUTES
CROWN BOARDROOM
TUESDAY, SEPTEMBER 30, 2014
5:30 PM

Members in Attendance

George Turner, Chairman
Ryan Aul
Edith Bigler
Judy Dawkins
McBryde Grannis
Mark Lynch
Ramona Moore
Nat Robertson
Robert C. Williams
Pat Williford
Elizabeth Varnedoe
William "Bill" Tew

Liaisons in Attendance

Commissioner Jimmy Keefe, County Board of Commissioners

County Staff in Attendance

Phyllis Jones, Assistant County Attorney

Global Spectrum Staff in Attendance

Douglas Higgons, Regional Vice-President
James Grafstrom, General Manager
Krista Barnhill, Director of Finance
Rita Perry, Human Resources/ Office Manager (Acting Clerk)

Centerplate Staff in Attendance

William Tracy, Regional Vice-President
Brian Gaskill, General Manager

Members Absent

Olivia Chavis
Wayne Beard, Sr., Vice-Chairman
Thaddeus Jenkins, Secretary

.....
ITEM 1: CALL TO ORDER

Chairman Turner called the meeting to order at 5:38 PM.

ITEM 2: INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was offered by Mrs. Dawkins; thereafter, Mrs. Dawkins led the Pledge of Allegiance to the American Flag.

ITEM 3: CITIZEN CONCERNS – Chairman Turner / Mr. Grafstrom

There were no citizen concerns.

ITEM 4: APPROVAL OF AUGUST 26, 2014 MEETING MINUTES

MOTION: Mrs. Varnedoe moved to approve the minutes as presented.

SECOND: Mr. Lynch

VOTE: UNANIMOUS (12-0)

ITEM 5: CATERING & CONCESSION REPORT - Brian Gaskill, General Manager

Mr. Gaskill provided a catering and concession update as follows:

- Main concourse bar – named "Backstage Bar"
 - Photos of past events would be displayed and changed in accordance with type of show
- Theatre and arena concession updates were being researched
- Upcoming products

Chairman Turner questioned whether Cinnabons were a permanent menu item. Mr. Gaskill responded in the affirmative.

Mr. Lynch made an inquiry regarding the planned concessions for the Community Concert series. Mr. Gaskill stated wraps, fruit trays and possibly an upstairs bar.

Mr. Robertson questioned whether all the bars would have all products available and credit card readers. Mr. Gaskill answered in the affirmative.

Chairman Turner presented a plaque on behalf of the commission and requested it be bestowed upon Jihad "Jimmy" Musa in recognition and appreciation for his service at the Crown Complex.

ITEM 6: FINANCE & GENERAL MANAGER'S REPORTS –Mr. Grafstrom

Finance - Mr. Grafstrom presented the August 2014 Finance Reports by summarizing the consolidated income statements. Mr. Grafstrom reviewed the rolling forecast and aspects that could influence the results. Mr. Grafstrom stated that suites and signage revenue would increase throughout the year.

Mr. Grafstrom concluded with an overview of summer events that customarily had not occurred in the past.

MOTION: Mr. Robertson moved to accept the August 2014 Financial Report.
SECOND: Mr. Williams
VOTE: UNANIMOUS (12-0)

(August 2014 Financial Report is hereby incorporated by reference and made a part of these minutes)

General Manager - Mr. Grafstrom provided the General Manager's Report as follows:

- Reviewed the results of the audit report
 - Internal controls were solid
 - No deficiencies detected
 - Passed with flying colors
- Incentive fee approved and distributed
- Venues Today, a national publication, ranked the Crown Complex the 4th top stop for entertainment in the Carolinas for 2014. 11th was the Crown Complex's highest ranking in the past.

Commission Keefe questioned how many venues. Mr. Grafstrom stated 12-20.

- Reviewed Crown theatre renovation needs:
 - Logistical Issues
 - Performance Stage Quality
 - Production Challenges and Deficiencies
 - Lackluster Patron Experience

A discussion ensued regarding the various inadequacies and the need to procure an architect, the estimated cost and timeframe during which the theatre would be inoperable.

Mr. Lynch requested local architect firms be given the opportunity to submit proposals during the RFP process.

MOTION: Mr. Lynch moved to develop a proposal to request architectural service to procure cost of the theatre renovations.
SECOND: Mr. Robertson
VOTE: UNANIMOUS (12-0)

- Crown Pub Update

ITEM 7: OLD BUSINESS

- **Small Claims Settlement Request** -Ms. Jones summarized the judgment as follows:
Cumberland County Civic Center Commission was awarded a small claims judgment against Vehicle Processing Center of Fayetteville in the amount of \$5,150 (\$5,000 principal amount + \$150 interest). To date the total amount due to date was \$5,902.85 (\$5,000 original amount + \$126.00 court cost + \$776.85 interest which accrues daily in the amount of \$1.10) and that the Clerk of Courts Office only processed payments in full.

Vehicle Processing Center of Fayetteville has requested that the Commission accept \$5,150 as payment in full thereby waiving the interest and court costs.

Ms. Jones stated that the County Attorney's Office has no recommendation.

MOTION: Mr. Lynch moved to accept the original judgment amount thereby waiving the additional interest and court cost.
SECOND: Mrs. Moore
VOTE: UNANIMOUS (12-0)

Mr. Grannis questioned whether the Crown would rent VPC another suite. Mr. Grafstrom confirmed there was interest and stated appropriate payment methods would be required.

- **NCDOT Meeting Overview** - Mr. Robertson provided an overview of the meeting he attended regarding proposed improvement on Hwy 301 and stated he requested DOT to assist with the traffic related to the Crown Complex. Mr. Robertson conveyed that plans were being negotiated.

ITEM 8: NEW BUSINESS

- **Civic Center Commission Membership Modification Proposal** – Mr. Robertson suggested that the Cumberland County Civic Center Commission present a request to the Board of County Commissioners to not fill the six (6) upcoming vacancies on the Civic Center Commission, due to expire on January 1, 2015, and to have a charter revision submitted to the General Assembly modifying the commission's membership to consist of nine (9) members; thereby, making the Commission proportionate with the recommendation provided in the June 2013 Johnson Consulting, Inc. Performance Audit.

Mr. Tew stated he could see reducing the size of the commission and a smaller number of members may not allow for representation of the County.

Mr. Aul stated he was in favor of the reduction, conveyed the challenge of writing by-laws for a 15-member board and stated nine members would be large enough.

Mr. Lynch stated that the consultants affirmed that the size of the commission was too large and recommended a reduction.

Chairman Turner asked Mr. Higgons whether Global Spectrum encountered other boards that were this large. Mr. Higgons responded in the negative.

MOTION: Mr. Aul moved to submit a request to the Board of County Commissioners to not fill the six (6) upcoming vacancies on the Civic Center Commission, due to expire on January 1, 2015, and to have a charter revision submitted to the General Assembly modifying the commission's membership to consist of nine (9) members.

SECOND: Mrs. Moore

VOTE: 11-1 (Mr. Tew in opposition)

ITEM 9: COMMENTS - County Management/City of Fayetteville/Board Members/Fort Bragg/Staff

- A briefing discussion ensued regarding a previously discussed proposed land acquisition.

ITEM 10: CLOSED SESSION
There was no closed session.

ITEM 11: ADJOURNMENT
The meeting was adjourned at 6:29 PM.

George Turner, Chairman

Thaddeus Jenkins, Secretary

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 27
HOUSE BILL 215

AN ACT TO MODIFY THE STATUTES GOVERNING THE CUMBERLAND
MEMORIAL AUDITORIUM COMMISSION.

Whereas, the General Assembly, on April 28, 1965, created the Cumberland Memorial Auditorium Commission to provide the most efficient management and beneficial use and enjoyment of the Cumberland County Auditorium and its facilities; and

Whereas, there is a need to change the name, organization, and functions of the Cumberland Memorial Auditorium Commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 360 of the 1965 Session Laws, as amended by Section 6 of Chapter 983 of the 1984 Session Laws, reads as rewritten:

"(a) ~~Cumberland Auditorium-County Civic Center~~ Commission. There is hereby created in Cumberland County a commission to be known as the Cumberland ~~Memorial Auditorium-County Civic Center~~ Commission which shall have the powers and duties hereinafter set forth.

(b) Membership; Terms of Office. ~~The Commission shall consist of fifteen (15) members who shall be residents of Cumberland County appointed by the Board of County Commissioners of Cumberland County immediately after the date when this Act becomes effective.~~ The Commission shall consist of 16 members. Fifteen members shall be residents of Cumberland County and shall be appointed by the Board of County Commissioners. The sixteenth member shall be the County Manager of Cumberland County who shall serve in an ex officio and nonvoting capacity and without limit as to term.

- (1) Five ~~(5)~~ of the first members of the Commission shall be appointed for a term of one ~~(1)~~-year, five ~~(5)~~ for a term of two ~~(2)~~-years, and five ~~(5)~~ for a term of three ~~(3)~~-years. Upon the expiration of each of the terms, the Board of County Commissioners shall appoint successor members of the Commission who shall each serve for terms of three ~~(3)~~-years and until their successors are appointed for like terms. Any member of the Commission may be reappointed for successive terms.
- (2) Vacancies occurring on the Commission otherwise than by expiration of a term shall be filled by appointment for the unexpired term of the vacant office.

- (3) From its membership the Commission shall at its first meeting, and annually thereafter, elect a ~~chairman, vice chairman, and secretary.~~ Chairman, Vice-Chairman, and Secretary. These officers shall hold office for one year or until their successors are duly elected. ~~The County Manager of Cumberland County shall by virtue of his office also be the treasurer of the Commission. All funds received or handled by the Commission shall be subject to the control of the treasurer who shall prescribe the way and manner all such funds shall be collected, held, disbursed and accounted for. A yearly budget shall be prepared and submitted to the County Board of Commissioners for approval along with any request for an operation attached levy or any request for public funds to be used in the operation of the auditorium facilities. The Board of County Commissioners shall select the auditor of the Commission's accounts.~~
- (4) The officers elected together with ~~one other member~~ two other members of the Commission, who will also be elected at the first meeting of the Commission and annually thereafter, shall constitute the Executive Committee of the Commission. ~~In order to provide for the most efficient operation of the business of the Commission, the Executive Committee shall have sole power and authority over the management and operation of the facilities and to conduct the Commission's business within the policies as are from time to time adopted by the Commission, and all powers and authority not specifically reserved for action of the full Commission under its bylaws shall be vested in the Executive Committee.~~ The Executive Committee shall perform those duties and functions specified in the bylaws of the Commission.
- (5) Regular meetings of the Commission shall be held ~~quarterly and special monthly.~~ Special meetings may be called by the ~~chairman or any two (2) members of the Executive Committee upon twenty-four (24) hours' written notice to the members stating the purpose of the meeting.~~ Chairman or a majority of the voting members of the Commission. Attendance of ~~not less than eight (8) members~~ shall constitute a quorum for the purpose of transaction of business at any regular or special meeting.
- (6) The Commission may adopt, and from time to time amend, bylaws to implement its organization and provide for the orderly conduct of its affairs.
- (7) All funds received or handled by the Commission shall be subject to the control of the Finance Officer of Cumberland County who shall prescribe the way and manner these funds shall be collected, held, disbursed and accounted for. The Board of County Commissioners shall select the Auditor of the Commission's accounts.

- (8) The Commission shall prepare an annual budget and submit it to the Board of County Commissioners for approval, in a format prescribed by the County Manager, along with any requests for capital improvements or any requests for public funds to be used in the construction or operation of the Civic Center facilities.

(c) Powers, Purpose and Duties of Commission. The powers, purpose and duties of the Cumberland ~~Memorial Auditorium~~ County Civic Center Commission shall include:

- (1) The establishment and management of a memorial fund as a means by which donations may be solicited, received and used in the construction, equipment, decoration, maintenance or operation of the ~~auditorium,~~ Civic Center, its allied facilities and grounds and appropriate recognition made to the memory of persons to be memorialized.
- (2) To assist, in advisory capacity, the Board of County Commissioners in planning for and construction of the facility, and carry out any duty or assignment expressly delegated to it by resolution of the Board of County Commissioners.
- (3) To operate the ~~public auditorium~~ Civic Center facility under the terms and conditions prescribed by the Board of County Commissioners.
- (4) To study, plan, and program for the highest and best use of the facilities committed to it for public use, edification and enjoyment.
- (5) The power to make such reasonable rules and regulations for its own proper organization and procedure and the management, use, control, improvement, equipment, upkeep, and safekeeping of the facilities, properties, and funds committed to its charge, including the receipts and expenditures of such funds committed to its charge, including the receipts and expenditures of such funds as may be or become available for the improvement or management thereof and the use of such facilities as well as spectators' or participants' entrance fees and provided such rules and regulations do not conflict with and are not inconsistent with the laws of the State of North Carolina or ordinances of Cumberland County.
- (6) The employment of a manager and ~~such~~ other employees as may be necessary for the proper implementation of the purposes and duties of the Commission.
- (7) The power to contract and be contracted with, to rent, acquire, hold, exchange, transfer and convey property of any kind, to sue and be sued in its own name or the Cumberland ~~Memorial Auditorium~~ County Civic Center Commission as a corporate body by its officers in the same manner, as a business corporation subject to the limitations herein contained.

(d) Limitation on Powers. The Commission shall not have the power to perform the following:

- (1) Mortgage or encumber property owned by it or under its control or supervision otherwise than as herein provided.
- (2) Borrow money from any source whatsoever, but the Cumberland County Board of Commissioners may in its discretion advance and lend to the Commission in anticipation of uncollected taxes such sums, not exceeding in the aggregate at any time the total amount of taxes theretofore levied for the purposes of the Commission and the remaining uncollected, and shall reimburse itself for such amounts out of such taxes as and when collected. Provided also these limitations shall not be construed to prohibit purchases by the Commission on a time or deferred payment plan or purchase contract.
- (3) Use any property or funds belonging to the Commission or under its control for any pecuniary gain whatsoever of any member of the Commission, nor shall the Commission purchase from, contract with, nor grant license or concession to any person, firm or corporation in which any member of the Commission has a monetary interest directly or indirectly.
- (4) Collect, receive, deposit, disburse, or otherwise handle, and account for all funds only in such manner as is prescribed by the ~~Treasurer~~ Finance Officer of Cumberland County.
- (5) No member of the Commission shall receive or accept any fee, gratuity or thing of value in payment for any act to be done or not to be done by the Commission save and except such salary as may be prescribed by the Board of County Commissioners.
- (6) Upon dissolution of the Commission or upon termination of its connection with the operation of the facilities by resolution of the Board of County Commissioners, all funds and property acquired, held or accumulated by the Commission shall become the funds and property of Cumberland County."

Sec. 2. Section 3 of Chapter 360 of the 1965 Session Laws, as amended by Section 6 of Chapter 983 of the 1984 Session Laws, reads as rewritten:

"Sec. 3. Special auditorium tax funds, if authorized and levied, and nontax revenues may, in the discretion of the Board of County Commissioners, be turned over to the Commission to be used in operating, equipping, improving and maintaining. Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be utilized by the ~~Auditorium~~ County Civic Center Commission, as approved by the ~~board of county commissioners~~, Board of County Commissioners, in aiding and encouraging convention and visitor promotion in Cumberland County."

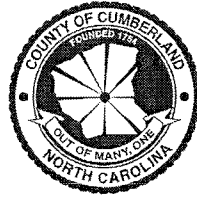
Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of April, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 3

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

5th Floor, New Courthouse • P.O. Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829
(910) 678-7762

**MEMO FOR THE AGENDA OF THE NOVEMBER 6, 2014,
MEETING OF THE POLICY COMMITTEE**

TO: Board of Commissioners; Co. Manager; Richard Wiggins, Attorney for
MBM Hospitality; Russ Rogerson
FROM: Co. Atty. *R. Moorefield*
DATE: October 30, 2014
SUBJECT: Reconsideration of Economic Development Incentives Agreement for MBM
Hospitality, LLC

Requested by Board of Commissioners
Estimate of Time Needed: As needed

BACKGROUND:

After conducting a duly advertised public hearing, the Board of Commissioners approved an economic development incentive agreement for MBM Hospitality, LLC, on September 20, 2010. The project was the Embassy Suites Hotel constructed at 4760 Lake Valley Drive, Fayetteville. The agreement was drafted by the county attorney, signed by then-Chairman Kenneth Edge and delivered to Bo Gregory at the Chamber of Commerce in March, 2011.

Naynesh Mehta, the managing member of MBM Hospitality, LLC, asked the county attorney in the summer of 2014 how MBM would receive the incentive payment for 2013, its first full year of operations. The county attorney explained that the agreement had never been returned so there was no basis for the county to pay the incentives. Mr. Mehta stated that he had believed the agreement he signed with the City of Fayetteville covered both the city and county incentives. The county attorney had further discussions with Richard Wiggins, the attorney for MBM Hospitality, and drafted a proposed new agreement based on that discussion.

The City of Fayetteville also approved an incentives agreement for this project. The City's agreement was signed by the parties in March, 2011. The City's agreement was amended in July, 2014. A summary of the key provisions in the Original City Agreement, the Amended City Agreement, the Approved County Agreement, and the Proposed County Agreement is provided in the following table:

	City Agreement	City Amendment (7-31-2014)	County Approved Agreement	Proposed Agreement
Company	MBM Hospitality, LLC	MBM Hospitality, LLC	MBM Hospitality, LLC	MBM Hospitality, LLC, and an affiliated corporation
Project	165 rooms; 18,000 sq. ft. conference center	165 rooms; 18,000 sq. ft. conference center	160 rooms; 18,000 sq. ft. conference center	165 rooms; 12,000 sq. ft. conference center
No. of Jobs > County Median	76 full and part-time	76 full and part-time	76 full-time	18 full-time
No. of Total Jobs for County Residents	101 full and part-time	101 full and part-time	101 full-time	78 full and part-time
Investment/Increase in Taxable Value	\$25 million	\$22 million	\$25 million	\$15 million +
Incentives Level	Level 3	Level 3	Level 2	Level 2

It is important to note that the proposed new agreement also incorporates a provision that proportionally reduces the amount of the incentive paid for any year that the taxable value is reduced by the County Board of E&R, the State Property Tax Commission, or by the general county revaluation of all real property. The county's valuation of the hotel has been appealed to the State Property Tax Commission.

The Board approved the incentives as Level 2 under the joint incentives policy based on the information that was presented at that time. At Level 2, the incentives payments commence at a 60% grant-back of the property taxes actually paid. The company is still requesting the same level of incentives even though it does not qualify for incentives under the joint policy because it is not rated with at least 50 points. The county attorney points out that even under the original levels of investment and jobs, the project only qualified for a Level 1 incentive under the policy.

The company did enter into an agreement with the City of Fayetteville that was based on the project creating 76 full and part-time jobs that paid more than the county median, 101 full and part-time jobs for residents, and an increase in taxable investment of \$25 million. The City Agreement was amended in July, 2014, to reduce the taxable investment to \$22 million. The City's incentives payments commenced at a 70% grant-back of taxes paid.

It is apparent that different information about the project was submitted to the City and County. The county attorney cannot determine how the City Agreement came in at a Level 3 for incentives or even how the agreement approved by the county came in at a Level 2 for incentives.

The county attorney has calculated the points attributable to the project by the joint policy using (1) both the part-time and full-time jobs; (2) assuming the jobs have health insurance, retirement benefits, profit sharing and paid vacation; and (3) at least 5 jobs were created for persons living within 2 miles of the site. This calculation is shown below:

		Orig. Points	Actual Points
Number of New Jobs Above the Median Wage	Points		
1-9	1		
10-20	2		2
21-50	5		
51-75	7		
76-100	9	9	
101-150	12		
150-200	15		
200+	20		
Total Possible Points	20		
Quality of New Jobs	Points		
Partial Employer Paid Health Insurance	1	1	1
Entire Employer Paid Health Insurance	3		
Retirement Benefits	2	2	2
Profit Sharing	2	2	2
Employer Paid Vacation	2	2	2
Employee-Owned Company	3		
Total Possible Points	10		
Number of Existing County Residents Hired	Points		
1-9	1		
10-20	2		
21-50	3		
51-75	5		
76-100	7		7
101-200	9	9	
200+	10		
Total Possible Points	10		
Project Location	Points		
Adopted Revitalization Zone	25		
City or County Business/Industrial Park	10		
Military Business Activity Zone	10		
Total Possible Points	25		
Level of Capital Investment	Points		
Under \$500,000	1		
\$500,000-\$4,999,999	5		
\$5,000,000-\$14,999,999	10		
\$15,000,000-\$24,999,999	15		15
\$25,000,000 and Above	20	20	
Total Possible Points	20		
Environmental Impact	Points		

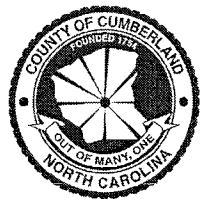
Reuse of Existing Building	4		
Location in LEED Certified Building	4		
Other sustainable features (recycling, water reuse, etc.)	2		
Total Possible Points	10		
Industry Cluster/Business Type			
	Points		
Defense Industry Cluster	6		
Company Headquarters	6		
Verified Supply-Chain/Sourcing Relationship with Cumberland County	4		
Total Possible Points	10		
Public Benefit			
Dedication in excess of statutory requirements	5		
Public infrastructure in excess of statutory requirements	5		
Creation of 5 or more jobs for residents within 2 miles	10	10	10
Total Possible Points	10		
Total Points Earned		55	41

Based on the county attorney's calculation and using the part-time jobs, the project as originally proposed earned 55 points and as actually completed, it earns 41 points.

RECOMMENDATION/PROPOSED ACTION:

Consider whether to approve the new proposed agreement based on the project as completed with the provision to reduce the incentives proportionally with any further reduction in the taxable value.

RICKEY L. MOOREFIELD
County Attorney



PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
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**MEMO FOR THE AGENDA OF THE NOVEMBER 6, 2014,
MEETING OF THE POLICY COMMITTEE**

TO: Board of Commissioners; Co. Manager; Russ Rogerson; Karen McDonald
FROM: Co. Atty. *R. Moorefield*
DATE: October 30, 2014
SUBJECT: Reconsideration of Economic Development Incentives Policy

Attachment: Joint Economic Development Program Adopted June 7, 2010
Requested by Board of Commissioners
Estimate of Time Needed: As needed

BACKGROUND:

The Board of Commissioners and the Fayetteville City Council adopted the attached Joint Economic Development Program in June, 2010. The Chamber of Commerce requested the joint program to support its economic development activities. The Chamber’s economic developers believed it would enhance their efforts by having uniform program guidelines for discussions of incentives with prospective projects. The economic developers also sought the program as a means for the governing boards to consistently evaluate proposed projects.

Five economic development incentives agreements have been approved by the Board of Commissioners since the program was adopted. Thus far, none of those agreements have been finalized. The first two projects for which agreements were approved under the joint program would have been eligible for the first annual incentive payment this year. The first approved agreement was for MBM Hospitality. The Agreement was never signed by MBM and MBM is currently requesting a new agreement based on fewer jobs and less investment. The second agreement was with SSU. SSU never signed the original agreement and requested a different agreement based on fewer jobs and less investment a year after the initial approval. SSU did sign the second Agreement but did not make a request for its first annual incentive payment this year.

The points-system for the percentage amount of the tax grant-back is just one component of the policy. The policy also requires that the project must serve a public purpose and must demonstrate that without the incentives, the project could not be developed sufficiently to accomplish the public purpose. These public purpose and economic justification considerations are required by State law and the joint policy is written consistently with that State law.

It is the opinion of the county attorney that the joint program with the City is a good approach and should be maintained; however, it is also the attorney's opinion that the program has been so loosely applied to specific projects that the benefits the economic developers hoped to gain have simply been lost. This is for two reasons. First, the public purpose and economic justification components of the policy have been ignored. This is important because projects should not even be evaluated under the points-system if either the public purpose or the economic justification requirements are not met. Second, the criteria-based points system has been manipulated to generate the greatest amount of incentives instead of being used to consistently evaluate projects to generate the amount of incentives that is justified by the program. That is why the first two projects were unable to comply with their respective approved agreements.

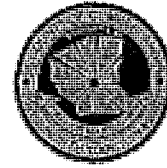
The public purpose and economic justification components cannot be ignored because these are legal requirements under State law. The points-system should not be manipulated because the projects must demonstrate they have met the obligations agreed upon in exchange for the incentives. When the project cannot demonstrate fulfillment of its obligations, State law prohibits the award of the incentive, or when the incentive payment has already been made, requires that it be recovered by the county.

The county attorney believes the joint program can be implemented in such a way that it will produce the benefits the Chamber identified when it requested the City and County to adopt it in 2010. The process by which projects are evaluated must begin with the public purpose and economic justification analyses. Only those projects which qualify under the public purpose and economic justification components should be rated by the eligibility criteria. The eligibility criteria need to be rewritten to better address the type and scope of project that we are seeing. Some of the criteria should be restated to simply minimize the degree to which the language is subject to interpretation.

The county attorney has discussed these issues with Russ Rogerson and believes that Mr. Rogerson agrees that the program can be strengthened with minor changes to the process and language. Mr. Rogerson has been invited to the Policy Committee meeting to participate in the discussion as needed

RECOMMENDATION/PROPOSED ACTION:

The county attorney recommends that the Committee direct county staff work with appropriate city staff and Russ Rogerson to rewrite the program language to address the issues discussed in this memo for further consideration by the Policy Committee at its January meeting. The county attorney anticipates that the City will also support these changes.



Economic Development Program

v. 6/1/10

Cumberland County and the City of Fayetteville have determined that it is in the best interests of their residents and constituents to implement an economic development program to attract and support private investment to:

- Expand the tax base;
- Redevelop economically challenged areas of the community;
- Increase employment opportunities, wages, and personal incomes;
- Improve the quality of life available to their residents; and
- Increase wealth in the community.

The ultimate objective of this work is to develop a healthy and diverse tax base able to provide the resources necessary for Cumberland County and Fayetteville to provide high quality public services consistent with their missions at a reasonable cost to their residents.

This effort will be coordinated and led by the Fayetteville-Cumberland County Chamber of Commerce (FCCCC). The purpose of this document is to establish the composition and boundaries of that program.

Organization:

FCCCC will serve as the primary point of contact for economic development projects under consideration for this program throughout the process of Application, Review, and Evaluation (except as otherwise noted below). The FCCCC will manage and coordinate the receipt of application materials and when appropriate make a written recommendations and/or oral presentations to the City Council and Cumberland County Commission as to the eligibility and suitability of each proposal. The FCCCC will not only serve as the initial point of contact for those interested in accessing this incentive program, but will also promote the program.

The FCCCC will pre-screen applicants for preliminary eligibility and provide early notification to the offices of the City and County Managers at the point it appears a potentially qualifying project has begun its due diligence process for sites in Fayetteville and Cumberland County. All proprietary information is to be retained by the FCCCC until such point as the developer authorizes public dissemination of the subject information.

The final decision as to eligibility and suitability leading to a decision to apply any of the development incentives herein to any particular project rests with the City Council of the City of Fayetteville and the Cumberland County Commission.

While the FCCCC will have primary responsibility for project review and incentive plan development, they will do so in coordination with the City and County managers' offices and

Cumberland County
City of Fayetteville
Economic Development Program

with technical support from relevant City and County subject matter experts.

Projects eligible for assistance may receive a combination of the incentives described herein dependent on the project's documented need for assistance, and the projected benefit to the community's economy and quality of life.

The FCCCC may also provide development assistance for eligible projects, including, but not limited to:

- Providing meeting space during planning, negotiation and construction process; and
- Providing project management personnel for local resource guidance, workforce development, facility assistance and government/community interface

The FCCCC is also expected to seek support for economic development projects through federal, state, and other local agencies

Public Purpose:

All projects supported by economic development incentives recommended by FCCCC must serve a Public Purpose. The Public Purposes to be served through the application of this program will include:

- Expanding the tax base by increasing the value of taxable property;
- Increasing employment opportunities, wages, and personal incomes;
- Diversifying the economic base of the community improving economic stability;
- Redeveloping economically challenged areas of the community and removing blight in key corridors identified by one of the jurisdictions;
- Supporting the development of facilities necessary to fill the needs identified by the BRAC RTF Comprehensive Regional Growth Plan for the Fort Bragg Region (September 2008); and
- Improving the quality of life available to Fayetteville and Cumberland County residents.

Economic Justification

The FCCCC will review all requests for incentives to evaluate eligibility of the type and amount of assistance requested. This will include identification of the public purpose(s) to be served by the project and must be supported by evidence that without the assistance requested the project could not be developed with the attributes and benefits necessary to serve the identified Public Purpose.

This will include scrutiny of the gap analysis provided by the applicant's independent financial analysis. The economic impact analysis will forecast the projected outcomes from a particular project, including, but not limited to, job generation, and direct and indirect economic impacts in the community for ongoing operation of the facility. The analysis will be used in consideration of approval of the project as well as in drafting potential terms of the Economic Development Incentive Agreement if approved for the program. The FCCCC will provide a written

Cumberland County
City of Fayetteville
Economic Development Program

recommendation to the City and County regarding project eligibility and level and type of assistance.

General Eligibility Criteria:

Projects must be:

- located within the City limits of Fayetteville (for City incentive programs) and/or Cumberland County (for all programs);
- permitted under existing zoning and land-use regulations applicable to the subject property without subsequent action by the City Council or County Commission; and
- subject to property tax.

Programs:

Without precluding exploration of unique or evolving economic development projects, economic development activities will focus on meeting the needs of potential projects through the following programs:

Property Tax Grantback Program (City & County)

The Property Tax Grantback program provides a successful applicant a series of grants based upon ad valorem taxes actually paid and is subject to the following:

Property Tax Grantback benefits will only be paid for completed, operational projects meeting the terms of the Economic Development Incentive Agreement (“EDIA”) and that remain in compliance with all applicable codes, regulations, and requirements including but not limited to those associated with environmental, building, zoning, property maintenance, and specific terms or standards established in the EDIA.

The Property Tax Grantback benefits will be determined based on the documentation of financial need and the Property Tax Grantback Incentive Program Table (Attachment A). The Grantback benefit will be a function of the increased property value over the initial land value as determined by the County Tax Administrator for each year of eligibility. In order for projects to remain eligible, all property taxes must be paid on time in accordance with standard City and County requirements. Eligible projects will receive a Property Tax Grantback payment in accordance with the terms set out in the EDIA.

Tax Increment Funded Public Infrastructure Program (City & County)

Public infrastructure required to support a privately financed project may be funded through the dedication of future ad valorem tax revenue (Synthetic “TIF”). The funding provided shall not exceed the amount that can be retired by a dedication of fifty percent (50%) of the projected increase in ad valorem revenue of the property supported by the public infrastructure project over a period of twenty (20) years. Any funding for the public infrastructure project not covered by this program must be secured to the satisfaction of the City and/or the County prior to commitment of public resources.

Examples of eligible public infrastructure projects include transportation, stormwater, recreation, and parking improvements. In all cases, the resulting improvement must be dedicated to the City or County for public benefit, use and operation upon completion. The design of the public improvement project must be approved in advance and estimated cost

Cumberland County
City of Fayetteville
Economic Development Program

must exceed \$3 million. Any ongoing operational or maintenance requirement for developed improvements must be addressed in the EDIA. Required conditions precedent and other guarantees that may be required to ensure the anticipated tax revenue is generated will also be set out in the EDIA. The project applicant must not seek any other incentive that could result in reducing the tax revenue available to support repayment of the debt incurred to support the construction of the public infrastructure project.

Property Price Grantback (City & County)

City and/or County owned property acquired and prepared for development or redevelopment may be made available for a price established by market appraisal or as authorized by N.C.G.S. 158-7.1. The purchase price may, however, be granted back to the developing entity or purchase payments forgiven based upon job creation and other Public Purposes as defined and consistent with terms established in the EDIA.

Support Programs: (City)

The FCCCC will promote the following programs, but will refer applications to the Community Development Department of the City of Fayetteville for processing.

Downtown Loan Program

This program is designed to recruit small businesses to the downtown Fayetteville Renaissance Plan area. Loans are available for existing or expanding small businesses to purchase, renovate or construct a downtown commercial property. The minimum loan is \$50,000 and the maximum is \$300,000. The City partners with six banks to fund this loan pool. The City puts in 40% of each loan and offers an attractive fixed interest rate of 4% and the banks share the other 60% at variable prime.

Business Assistance Loan Program

This program is available to small businesses investing anywhere within the City limits. It offers assistance with gap financing or down payment assistance. The business owner would first make application to a bank for a primary loan and after being approved and identifying a gap in financing, can then make application to this program. The City's loan can be up to \$125,000 or up to 25% of the total loan funds needed. The City offers a low fixed interest rate of 5% and an even lower rate of 3% if the business is located within one of the City's redevelopment plan areas.

Façade Improvement Grant Program

This program encourages downtown businesses as well as those located within any of the City's redevelopment plan areas to improve the exteriors of their commercial property. The City will provide a 50% matching reimbursement grant up to a maximum of \$5,000 for each project.

Urban Progress Zones

This incentive program provides economic incentives to stimulate new investment and job creation in economically distressed areas. The designation of these zones offers an enhancement to the Article 3J state tax credits that are available to eligible taxpayers. The

Cumberland County
City of Fayetteville
Economic Development Program

City of Fayetteville has two Urban Progress Zones that are effective beginning January 1, 2010 through December 31, 2011.

Development Eligibility & Review/Evaluation Criteria

To be eligible for this program, the proposed project must identify:

- the financial and technical capacity of the development team as demonstrated by past participation/responsibility for projects of the type proposed;
- the location, site characteristics and preliminary sketch site design;
- the proposed LEED elements to be incorporated into the development, construction and operation of the facility;
- number and type of FTE jobs to be created;
- the preliminary project budget;
- the physical and operational/service elements that will result in the project being eligible for this program;
- the type(s) and fiscal impact estimates of the proposed incentives;
- unique benefits or public contributions to be provided by the project in excess of regulatory requirements;
- a professional independent financial analysis that will determine whether financial gaps exist justifying participation in the incentive program. The entity chosen for the financial analysis must be pre-approved by the City or County Manager; and
- any other information that may be requested by the City or County.

Economic Development Incentive Agreement

In the event that preliminary approval of a project for this program is provided, an Economic Development Incentive Agreement ("EDIA") will be drafted providing further detail of the physical and operational attributes of the entire scope of development. In addition, the responsibilities of the Developer and City and/or County will be clearly defined along with appropriate timelines for performance and remedies for breach of contract. Public funds will not be expended for any project specific improvements until a current and favorable market feasibility analysis is completed by an independent, nationally recognized third party expert demonstrating the viability of the proposed project and the developer demonstrates the irrevocable financial commitments necessary to carry out the project as agreed upon.

Additionally, once an incentive package has been approved, construction on a project must commence and be completed in accordance with the terms of the EDIA..

The EDIA will also include specific provisions to recapture the value of incentives provided should the project fail to provide the negotiated public benefit as defined in the EDIA and as demonstrated by specific performance objectives established in the EDIA.

**Property Tax Grantback
 Incentive Program Table**

The following table provides grantback eligibility guidelines based upon the scoring categories provided below:

Minimum Score	50	60	70	80	90
Year	Level 1	Level 2	Level 3	Level 4	Level 5
1	50%	60%	70%	80%	90%
2	50%	60%	65%	70%	80%
3	50%	55%	60%	60%	70%
4	50%	55%	55%	55%	60%
5	50%	50%	50%	50%	50%

The maximum value from each scoring category is provided below:

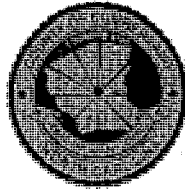
- | | |
|---|-----------|
| 1. Jobs (Number, Quality, Hiring Residents) | 40 points |
| 2. Project Location | 25 points |
| 3. Capital Investment: | 20 points |
| 4. Environmental Impact: | 10 points |
| 5. Industry Cluster/Business Type: | 10 points |
| 6. Public Benefit: | 10 points |

Depending on the score, new companies and existing company expansions will be eligible to qualify for, but not guaranteed, a financial incentive based on the percentages of annual property taxes paid for each year for a five year period as outlined above. With the exception of a 50 point minimum requirement for program eligibility, the table above and the point system below are important, but not controlling elements of the decision making process. Other qualitative criteria identified elsewhere in this document will be used in the process of considering, approving, rejecting, and/or modifying the incentive amount.

Number of New Jobs Above the Median Wage	Points
1-9	1
10-20	2
21-50	5
51-75	7
76-100	9
101-150	12
150-200	15
200+	20
Total Possible Points	20
Quality of New Jobs	Points
Partial Employer Paid Health Insurance	1
Entire Employer Paid Health Insurance	3
Retirement Benefits	2
Profit Sharing	2
Employer Paid Vacation	2

City of Fayetteville
Economic Development Program
Attachment A

Employee-Owned Company	3
Total Possible Points	10
Number of Existing County Residents Hired	
1-9	1
10-20	2
21-50	3
51-75	5
76-100	7
101-200	9
200+	10
Total Possible Points	10
Project Location	
Adopted Revitalization Zone	25
City or County Business/Industrial Park	10
Military Business Activity Zone	10
Total Possible Points	25
Level of Capital Investment	
Under \$500,000	1
\$500,000-\$4,999,999	5
\$5,000,000-\$14,999,999	10
\$15,000,000-\$24,999,999	15
\$25,000,000 and Above	20
Total Possible Points	20
Environmental Impact	
Reuse of Existing Building	4
Location in LEED Certified Building	4
Other sustainable features (recycling, water reuse, etc.)	2
Total Possible Points	10
Industry Cluster/Business Type	
Defense Industry Cluster	6
Company Headquarters	6
Verified Supply-Chain/Sourcing Relationship with Cumberland County	4
Total Possible Points	10
Public Benefit	
Dedication in excess of statutory requirements	5
Public infrastructure in excess of statutory requirements	5
Creation of 5 or more jobs for residents within 2 miles	10
Total Possible Points	10



**CUMBERLAND
★ COUNTY ★
NORTH CAROLINA**

DEPARTMENT OF PUBLIC HEALTH

**MEMO FOR THE AGENDA OF THE NOVEMBER 6, 2014
MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE MEMBERS
FROM: BUCK WILSON, PUBLIC HEALTH DIRECTOR *[Signature]*
THROUGH: JAMES LAWSON, DEPUTY COUNTY MANAGER
DATE: OCTOBER 30, 2014
**SUBJECT: SHARING INFORMATION RELATED TO THE AFFORDABLE
CARE ACT IN DETENTION CENTER**

Requested by: Buck Wilson

Presenter(s): Buck Wilson, Public Health Director

Estimate of Committee Time Needed: 15 minutes

BACKGROUND:

The intent is to share information related to the affordable care act in the detention center, as it relates to a holistic approach to improve the detention center.

RECOMMENDATION/PROPOSED ACTION:

Consider areas to improve the detention center.

/tlb