

**CUMBERLAND COUNTY
FINANCE COMMITTEE MEETING
THURSDAY, FEBRUARY 7, 2002, 8:30 AM
AMENDED MINUTES**

Present: Kenneth Edge, Chairman
Jeannette Council, Commissioner
John Henley, Commissioner
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy H. Cannon, Assistant County Manager
Cliff Spiller, Assistant County Manager
Grainger Barrett, County Attorney
Tonya Harris-Council, Public Information Director
Aaron Donaldson, Interim Tax Administrator
Gene Hodges, Deputy Tax Collector
Rhonda R. Britt, Deputy Clerk to the Board

Others: John Britton and Terry Hutchens (Hutchens and Senter)
Jonathon Charleston (Banks Law Firm)
Susan Hyatt (Craig and Brisson)
Press

Chairman Edge called the meeting to order.

1. Invocation.

Chairman Edge offered the Invocation.

2. Election of Chairman

MOTION: Commissioner Council offered a motion to elect Commissioner Edge Chairman of the Finance Committee by acclamation.
SECOND: Commissioner Henley
VOTE: UNANIMOUS

3. Selection of Regular Meeting Date and Time.

The committee members selected the first Thursday of each month at 8:30 AM as their regular meeting date and time. The committee will continue to meet in room 564 on the fifth floor of the Courthouse.

4. Approval of Minutes: November 1, 2001.

MOTION: Commissioner Council offered a motion to approve the November 1, 2001 Finance Committee meeting minutes.
SECOND: Chairman Edge
VOTE: UNANIMOUS

5. Consideration of Collection of Delinquent Tax Accounts Through Mortgage – Style Foreclosures by the County Attorney’s Office.

BACKGROUND: In the County Attorney’s October 26, 2001 memorandum to the Finance Committee, it was proposed to involve the County Attorney’s Office in collecting delinquent tax accounts through mortgage-style foreclosures. The proposal generated a number of inquiries from the Committee regarding the bottleneck in assigning cases for collection (i.e., the 10 day letters), the costs of the proposal, the effects on the three law firms currently handling such foreclosures, the process for allocating cases among them, etc.

The County Attorney would now like to suggest for the Committee’s consideration a proposal of significantly more limited scope which could be considered in conjunction with, or as an alternative to, the October 26th proposal.

Every time a foreclosure sale is actually held on the courthouse steps, a commissioner must be appointed to supervise the sale, to confirm the sale and issue a final report, tender a commissioner’s deed, and apply the sales proceeds. The commissioner must be a person distinct from the attorney handling the foreclosure action. The commissioner is allowed a fee of up to 5% of the purchase price of the property

G.S. 105-374(i) provides that in any foreclosure action in which real property is actually sold after judgment, the costs shall include that commissioner’s fee and the Board of Commissioners may request the court to appoint as commissioner a “salaried official, attorney or employee of the unit and, when the requested appointment is made, may require that the commissioner’s fees, when collected, be paid to the [county] for its use.”

The County Attorney proposes that the Board of Commissioners adopt a standing resolution requesting the court in every tax collection action to appoint the County Attorney as commissioner and require that the commissioner’s fee be paid to the county for its use. Someone from the Tax Collection Division attends every foreclosure sale on the courthouse steps. Gene Hodges estimates that numbers about four a month. He estimates that the typical sale amount ranges from \$5,000 to \$12,000, with most being at the lower end of that range. Conservatively assuming 48 sales annually at \$5,000, with a 5% commissioner’s fee averaging \$250, the annual proceeds would total \$12,000, without any increase in business from a greater number of cases being assigned to attorneys.

The County Attorney also proposes that a portion of the estimated annual proceeds be used to make his office’s paralegal position full-time, at an annualized approximate cost of \$8,000. The County Attorney’s Office has been reduced from three full-time paralegal positions to $\frac{3}{4}$ of one in recent budget years. The office currently has 2 & $\frac{3}{4}$ support staff for three full-time attorneys. The support staff is seriously over-stretched and only the very highest priority tasks are being accomplished promptly. With a full-time paralegal, it is suggested that he or she compile and issue the 10-day letters to delinquent taxpayers and assign mortgage-style foreclosure files to the three law firms.

This arrangement would not deprive the law firms of any attorney's fees. Some of them now capture some of these commissioner fees through use of affiliated subsidiaries, but the modest amounts involved would be more than offset by the increased business generated by getting 10-day letters out promptly and steadier, greater stream of foreclosure files to the attorneys. It would keep issuance of 10-day letters within the county organization. It would deal with the current "bottleneck" in issuing 10-day letters and assigning delinquent files to the law firms. It would mean timelier collection of taxes for the county. It would provide for more efficient disbursement of funds since the transfer of funds from the County Attorney's Office as commissioner to the Tax Administration Department would be an "in-house" ledger transfer. It would avoid an out-of-pocket expense for a 5% commissioner's fee when the county bids in a property at sale. And it would, by making the paralegal position full-time, enhance our opportunity to recruit a highly capable person for the position with exceptional title searching experience. The position is currently vacant since Angie Chase resigned as of January 25, 2002 because the position was not full-time.

From analysis of delinquent tax accounts, there appears to be an annual inventory of about 4,500 cases. About one-third of these seem to be cases where the taxes owed exceed \$500. The County Attorney believes the proposal set forth will permit the county more efficiently and expeditiously to forward those cases for collection to the outside firms.

Where taxes are \$500 or less, the court costs and attorney's fees may often significantly exceed the taxes collected. The real estate will be less valuable and may often have difficult features affecting desirability. The title searches will be more difficult and time-consuming in many of these cases. Few of these cases have been getting to the outside law firms. One possibility is for the County Attorney's Office to specially review how to collect them. Of the inventory of some 4,500 delinquent cases, some 1,500 or some appear to involve tax bills of \$500 to \$250 or so.

Perhaps by reducing attorney's fees for these cases, screening them in-house, and handling them in volume, the County Attorney may be able to develop a feasible proposal to present during the upcoming budget considerations to develop a cost-effective program for more timely collection of these tax bills for the county. Since this would, as with the October 26th proposal, require additional staff, there would need to be confidence that such a program would not be revenue negative to the county, even with very conservative assumptions.

RECOMMENDATION: Consider whether to recommend that the Board of Commissioners adopt a standing resolution requesting that the court in delinquent tax foreclosure collection cases appoint the County Attorney as commissioner of sale. Also consider whether to fund the County Attorney's Office's paralegal as a full-time position and direct the County Attorney to use that paralegal and issue 10-day letters and assign mortgage-style foreclosure tax collection files to the outside attorneys handling these collections.

Also consider whether or not to direct the County Attorney to review the feasibility of an in-house program to collect delinquent account of tax bills of \$500 or less and, if appropriate, present it during consideration of the 2003 budget.

Commissioner Council asked if making a position that is currently $\frac{3}{4}$ time to full time is enough to accomplish what is needed. Would the Committee receive updates on whether or not this proposal is working?

Mr. Barrett advised there would be a "breaking in" period for the person, but the person would be required to work between 1 day and $1\frac{1}{4}$ day a week on getting the letters out. He noted statistical data would be compiled to report back to the Committee on the progress being made.

Gene Hodges noted the number of cases referred to the attorneys has reduced since November. No 10-day letters were sent in January due to personnel issues and the listing period. He noted there are between 1,000 and 1,200 delinquent cases that owe taxes in the amount of \$500 or more.

Jonathan Charleston noted that efficiency in sending the 10-day letters is the key to getting these delinquent accounts processed. He asked if one staff person would be sufficient.

Mr. Barrett noted the staff person would be required to produce a certain number of letters in a particular amount of time. He is certain the flow of the letters will be increased.

Terry Hutchens stated his firm has offered to provide a staff person to the County to assist in this process. That offer still stands.

Gene Hodges noted the problem in getting these letters out in a timely manner is the work that needs to be done between identifying the delinquent bill and sending out the letter. Information on the property including all factors involved to proceed with the foreclosure must be determined before the letter can be sent. Currently, the Tax Office does not have the staff to keep up the process.

Commissioner Council noted the County must aggressively pursue these collections. She would like to move forward with this proposal and then review the progress.

Jonathan Charleston noted that the County hired temporary help a few years ago to get the 10-day letters out. The County needs to adopt a method to be aggressive in the collection of these taxes. If more bodies were put on this, the County would see collections increase significantly.

Mr. Charleston and Ms. Hyatt also noted their firms would be willing to provide a staff person to help the County speed up this process.

It was the consensus of the committee that the cases be distributed equitably between the firms and that a method be developed whereby the success of collection by the companies be monitored on an ongoing basis and the monitoring report be regularly presented to the Finance Committee.

Mr. Martin stated that the process needs to be automated. Once the tax office makes the determination about a case, the quicker the information is sent to the attorney, the more the County will be in a position to concentrate on the smaller delinquencies. Staff needs to work internally and then meet as soon as possible with the law firms.

MOTION: Commissioner Council offered a motion to recommend the following to the Board of Commissioners:

1. Adopt a standing resolution requesting that the court in delinquent tax foreclosure collection cases appoint the County Attorney as commissioner of sale.
2. Fund the County Attorney's Office's paralegal as a full-time position and direct the County Attorney to use that paralegal and issue 10-day letters and assign mortgage-style foreclosure tax collection files to the outside attorneys handling these collections.
3. To review the process with the outside attorneys handling these collections within 60 days and report back to the Finance Committee.
4. Review the feasibility of an in-house program to collect delinquent account of tax bills of \$500 or less and present any proposal in conjunction with consideration of the FY03 budget.

SECOND: Commissioner Henley
VOTE: UNANIMOUS

6. Other Committee Concerns.

Chairman Edge asked about the quarterly reports the Committee has received in the past. He asked when the next report would be presented.

Amy Cannon advised a report would be issued at the next Finance Committee meeting.

No other committee concerns were raised.

Meeting adjourned at 9:25 AM.