

CUMBERLAND COUNTY POLICY COMMITTEE  
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564  
APRIL 7, 2011 –10:30 AM  
MINUTES

MEMBERS PRESENT: Commissioner Ed Melvin, Chairman  
Commissioner Jimmy Keefe  
Commissioner Charles Evans

OTHER COMMISSIONERS  
PRESENT: Commissioner Kenneth Edge

OTHERS PRESENT: James Martin, County Manager  
Amy Cannon, Deputy County Manager  
James Lawson, Assistant County Manager  
Rick Moorefield, County Attorney  
Sally Shutt, Communications and Strategic Initiatives  
Manager  
Dr. John Lauby, Animal Control Director  
Brian Leonard, Assistant City Attorney, City of Fayetteville  
Candice White, Deputy Clerk to the Board  
Press

Commissioner Melvin called the meeting to order.

1. APPROVAL OF MINUTES: MARCH 3, 2011 MEETING

MOTION: Commissioner Keefe moved to approve the minutes as presented.  
SECOND: Commissioner Evans  
VOTE: UNANIMOUS

2. CONSIDERATION OF COMMISSIONER REQUEST TO ESTABLISH  
GUIDELINES FOR STAFF RETURNING TO WORK AFTER RETIREMENT

James Martin, County Manager, referenced Commissioner King's request that the Policy Committee look at the possibility of establishing guidelines, to include a time limit, for retirees to return to work for the county on a contract basis. Mr. Martin stated administration/staff are seeking input and direction from the committee and, although he understands some of the concerns, the rehiring of retirees meets the county's needs and is not done for the convenience of retired employees. Mr. Martin further stated staff returns to work after retirement on a limited/on-call/supplemental basis or when there is a need for less than full-time personnel. Mr. Martin stated with only minor exceptions, the county's use of retirees does not prevent the hire of full-time employees and relates to issues of costs.

Commissioner Evans stated the periods of time for which some of the retirees have returned to work are indicative of more than fill-in employment and the Board should set guidelines. James Lawson, Assistant County Manager, clarified the figures represent the period of time retirees have been on the county's payroll in their retirement status and available to work part-time.

Commissioner Evans clarified that he did not have a problem with retirees working for the county, but he did have a problem with retirees working within the same department they worked in prior to their retirement. Commissioner Evans stated for the most part, department heads have a pretty good indication of when an employee is going to retire so steps should be taken to groom someone for that position.

Commissioner Keefe asked how many departments the county manager could affect and whether county management had the authority to make a broad-brush policy to which all county departments would have to adhere. Rick Moorefield, County Attorney, responded in the negative and stated some of the county departments are subject to the county's personnel policies only to the extent that the departments choose for them to be. Mr. Moorefield further stated Public Health and Social Services employees are subject to the State Personnel Act and these departments could not be compelled to participate in a county policy, even though they may choose to participate. Mr. Moorefield advised there is a legal basis for this in each department.

Mr. Martin advised county department heads are instructed to analyze whether vacant positions need to be filled and if so, whether they should be filled on a permanent part-time basis or on a part-time/as-needed basis. Mr. Martin emphasized in most instances the mind set involves costs and what the county can do to get the job done in the least costly way.

Discussion followed regarding what constitutes work on a part-time basis, benefits associated with working twenty plus and thirty plus hours per week, and restrictions placed on retirees by the retirement system. Commissioner Keefe questioned the wisdom of enacting a policy for which the county has no hammer to enforce. Commissioner Evans stated the hammer for enforcement lies with the funds the county gives to departments across the board. Commissioner Edge stated department heads have a better understanding of the knowledge/skill level involved with jobs under their purview and the Board's setting of an arbitrary time limit could restrict or tie up certain positions, to possibly include the delivery of services.

Commissioner Evans stated the practice of staff returning to work in the same department after retirement gives the appearance of favoritism and, with the current unemployment rate, the county should not encounter a problem filling positions. Commissioner Edge spoke to situations in which succession planning may not be desired, the flexibility that is required when filling certain positions and the cost saving benefits to the county of allowing staff to return to work after retirement. Commissioner Edge further stated he did not feel the county should tie its hands by setting time limits.

Mr. Martin explained differences in filling retirement positions, certified/licensed positions and temporary/fill-in positions.

MOTION: Commissioner Evans moved that staff should be directed to look into creating a policy regarding retirees being hired as part-time workers in the same department for no more than three months.

The motion died due to lack of a second.

MOTION: Commissioner Keefe moved that the county manager come back with some guidelines for certified and non-certified positions on temporary hires and part-time employees, regardless of whether they are retired.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS

Commissioner Melvin turned the meeting over to Commissioner Keefe and excused himself from the meeting.

### 3. CONSIDERATION OF PROPOSED REVISIONS TO ARTICLES I, II AND III OF THE ANIMAL CONTROL ORDINANCE

Mr. Moorefield introduced Brian Leonard, Assistant City Attorney with the City of Fayetteville, and stated he kept most of the municipalities in the loop during the ordinance revision process. Mr. Moorefield stated Articles I, II and III have presented the most issues over time and the revisions as proposed are the result of more than a year of direct communication with animal control officers and their supervisors, citizens, People for the Ethical Treatment of Animals (PETA) and the Fayetteville Area Protection Society (FAPS). Mr. Moorefield further stated he had input from Animal Control Director Dr. John Lauby, but unfortunately not with all members Animal Control Board as they had experienced difficulties establishing a quorum for their meetings.

Mr. Moorefield stated he basically ended up rewriting Articles I, II and III and his memorandum contained in the meeting packet outlined the fundamental changes. Mr. Moorefield stated feedback from animal control officers was that they were unsure as to how to proceed when it came to Article III-Dangerous Dogs, so that article was changed significantly. Mr. Moorefield further stated there were several duplicative provisions throughout Articles I, II and II, as well as the remainder of the ordinance, and he indicated those as having been repealed and cited the reason for the repeal. Mr. Moorefield also stated he retained the numbering and structuring of the existing ordinance because the animal control officers are already familiar with the format.

With regard to Article I, Mr. Moorefield stated the name of the program is going to revert back to "Animal Control", which is a significant change from a policy perspective in

terms of the imagine the department presents. Mr. Moorefield proposed that a separate and smaller appeal board be established to hear the appeals or declarations of potentially dangerous dogs and that the structure of the appeal board be established from scratch by the Board of Commissioners. Mr. Moorefield stated the Animal Control Board will continue to have responsibility for the other civil aspects of appeals in the ordinance, with the exception of “dangerous dogs”. Mr. Moorefield proposed that the Animal Control Board appoint one member of the appeal board with the other two members being appointed as the Board of Commissioners determines. Mr. Moorefield stated the appeal board would be responsible to the Board of Commissioners with no real relation to the Animal Control Board. Mr. Moorefield explained the appeal board’s authority would be the proceedings as contained within the animal control ordinance and Chapter 67 of the general statutes. Mr. Moorefield responded to questions.

With regard to Article III-Dangerous Dogs, Mr. Moorefield stated the process for making dangerous dog declarations under Chapter 67 has not been used in the past because the county has held to the provisions under its ordinance. Mr. Moorefield stated when a dog inflicts serious injury on a person or another animal, the best approach is to go under the state statute which requires the Board of Commissioners to appoint a dangerous dog appeal board. Mr. Moorefield explained should the dog owner not like the decision of the appeal board, the process under state statute would be for the appeal to go directly into superior court with a trial before a superior court judge; this would not be an appellate proceeding. Mr. Moorefield stated the county would then have the ruling as issued by the superior court judge.

Mr. Moorefield stated the biggest issue within Cumberland County has not been serious dog cases, but situations in which a dog has inflicted injury on a person or another animal that is not a “severe” injury under state statute. Mr. Moorefield stated his proposal under the ordinance revision is to reduce the threshold of the injury required from “severe” to requiring “medical care more than first aid”. Mr. Moorefield explained this proposal would cover about eighty percent of the cases and proceedings would be entirely under the ordinance. Mr. Moorefield stated the appeal board would make the final decision, the animal control director would make the initial declaration, and a dog owner could appeal to superior court. Mr. Moorefield explained the superior court would sit as an appellate tribunal and only review the records created by the county to determine whether there was competent evidence on the record to support the decision.

Mr. Moorefield responded to additional questions and stated it is specific under the ordinance that the animal control director would have the discretion/authority to impound a dog he has declared “potentially dangerous” while an investigation is being conducted and the issue is resolved.

In response to a question posed by Commissioner Keefe, Mr. Moorefield explained the first step is for the county to clean up its ordinance and his hope is that the municipalities will enter into an interlocal agreement with the county by which they will consent to the ordinance being applied in their jurisdiction. Mr. Moorefield stated he plans to present

the first part of the ordinance to the Board in April, the second part of the ordinance to the Board in May, and the entire ordinance to the Board in June for adoption.

Mr. Moorefield pointed out “dangerous dogs” is the most serious issue the county has to deal with; however, complaints regarding nuisance animals are the most time consuming issue. Mr. Moorefield stated under Article II, the section on nuisance animals has been substantially rewritten because there was previously no practical way to enforce the provision. Mr. Moorefield further stated he also eliminated the different penalty provisions consistent with the request of animal control officers for a more uniform system of penalties.

Mr. Moorefield advised civil penalties are difficult to collect, do not support the activities of animal control as most people think, and are turned over to the school board. Mr. Moorefield stated his proposal is that enforcement of penalty provisions be primarily accomplished through the issuance of criminal summons for any violation as a Class III misdemeanor.

Mr. Moorefield also stated the anti-tethering section was reworded to address the tethering of dogs and a section was added under Article III to authorize the impoundment of tethered dogs but the decision of the animal control director to impound would be subject to an appeal process under Article X.

Mr. Moorefield invited Assistant City Attorney Brian Leonard to comment. Mr. Leonard stated that neither he nor the city attorney had any significant comments at this time and would continue to review the ordinance revisions. Mr. Leonard further stated following adoption of the ordinance by the Board of Commissioners, a presentation would be made to the Fayetteville City Council.

MOTION: Commissioner Evans moved to present to the Board of Commissioners at their next meeting.

SECOND: Commissioner Keefe

Mr. Moorefield requested permission from the committee to incorporate four additional changes that had been brought to his attention by Dr. Lauby. Commissioner Keefe asked that the four changes be highlighted when brought to the full Board.

VOTE: UNANIMOUS

#### 4. OTHER ITEMS OF BUSINESS

There were no additional items of business.

MEETING ADJOURNED AT 11:50 AM