

Camden County Board of Commissioners

**Regular Meeting
February 2, 2009
8:00 A.M.**

**Historic Courtroom, Courthouse Complex
Camden, North Carolina**

MINUTES

The regular meeting of the Camden County Board of Commissioners was held on Monday, February 2, 2009 at 8:00 a.m. in the Historic Courtroom, Camden, North Carolina. The following members were present:

Chairman Philip S. Faison
Vice Chairman Melvin J. Jeralds,
Commissioners Sandy Duckwall, Garry Meiggs and Michael McLain

Also attending was County Manager Randell Woodruff, Clerk to the Board Ava Gurganus and Attorney John Morrison.

Chairman Philip Faison called the meeting to order and called upon Commissioner Michael McLain to lead those assembled in the Pledge of Allegiance.

Public Comments

Chairman Philip Faison called for any comments from the public.

Fred Peedin Jr., 116 Avery Drive, spoke regarding land left in ruins from timbering and wants a 50' buffer from roadway so that the land would not be seen from the road. Mr. Peedin requested that the Board establish an ordinance for guidelines.

Consideration of Agenda

Commissioner Michael McLain made a motion to approve the agenda as presented. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Consent Agenda

Commissioner Melvin Jeralds made a motion to approve the consent agenda as presented. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

• **Consent Agenda**

January 05, 2009 Regular Meeting Minutes subject to correction of typographical and technical errors.

Tax Releases, Pick Up and Refunds

<u>Name</u>	<u>Amount</u>	<u>Type</u>	<u>Reason</u>	<u>No.</u>
Bobby Bassham	\$152.33	Release	Military Exempt	10752
William Basnight	-\$108.53	Release	Sold Mobile Home	10777
Jeffrey Davis	\$178.07	Pick Up	Late Listing	10804
Walter Compton	\$320.62	Pick Up	Late Listing	10805
Ian Gale	\$397.84	Pick Up	Late Listing	10821
Keith Nowell	\$194.62	Pick Up	Late Listing	10825
George Rowland	\$302.52	Pick Up	Late Listing	10823
Walter Compton	\$264.34	Pick Up	Late Listing	10807
Walter Compton	\$319.36	Pick Up	Late Listing	10806
Walter Compton	\$136.45	Pick Up	Late Listing	10808

Walter Compton	\$109.80	Pick Up	Late Listing	10819
Fletcher Smith	\$158.21	Pick Up	Late Listing	18009
David Luke	\$135.70	Pick Up	Late Listing	10827
Franklin Williams	\$233.00	Pick Up	Roll Back Tax	10741
Hyman & Robey	\$499.38	Pick Up	Late Listing	10761
Hardwood Properties	\$513.43	Pick Up	Late Listing	10762
Larry Amaker	\$522.30	Pick Up	Late Listing	10782
Eastern Carolilna Con.	\$1,277.03	Pick Up	Late Listing	10766

Tax Collection Report – December 2008 in the amount of \$1,787,027.18.

Refunds to be Issued by Finance Office in the amount of \$344.95.

Budget Amendments 2008-09-BA028, 2008-09-BA029, 2008-09-BA030, 2008-09-BA031 and 2008-09-BA032

2008-09-BA028
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009.

Section 1. To amend the General Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
104800-552004	Floodplain Mapping Fees	\$5,000.00	
104900-535001	Storm Water Fees	\$5,000.00	
105100-535510	Gun Fees & Permits	\$5,000.00	
Revenues:			
10320480-435605	Floodplain Mapping fees	\$5,000.00	
10340490-435001	Storm Water Fees	\$5,000.00	
10340510-435510	Gun Fees & Permits	\$5,000.00	

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$2,725.00

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 2ND day of February, 2009.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2008-09-BA029
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009.

Section 1. To amend the Social Services Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
528000-520000	Crisis Intervention		\$1,217.00
526100-574000	Capital Outlay		\$ 604.00
526100-538000	Road Tax	\$ 604.00	
Revenues:			
52330610-434819	Crisis Intervention		\$1,217.00

Change in funding and for better control of fixed asset inventory.

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$2,725.00 in General Fund

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 2ND day of February, 2009.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2008-09-BA030
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009.

Section 1. To amend the South Mills Fire Commission Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
415300-574003	Truck Payment		\$48,073.00
415300-511320	Debt Service	\$48,073.00	
415300-574108	Grant Equipment		\$18,609.00
415300-564108	Non-Capitalized Grant Equipment	\$18,609.00	

For better control of fixed asset inventory.

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$2,725.00 in General Fund

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 2ND day of February, 2009.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2008-09-BA031
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009.

Section 1. To amend the General Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
105800-574302	Solid Waste Site Development		\$3,914.00
105800-516000	Solid Waste Maintenance Equip	\$3914.00	
105100-574600	Capital Outlay Radios		\$7,957.00
105100-566600	Non-Capitalized Radios	\$7,957.00	

For better control of fixed asset inventory.

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$2,725.00 in General Fund

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 2ND day of February, 2009.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

FY 09-10 Budget Calendar

Resolution No. 2009-02-01 – A Resolution of the Camden County Board of Commissioners Opposing Rate Increase Requested by Insurance Companies

Resolution No. 2009-02-01

**A RESOLUTION OF THE
CAMDEN COUNTY BOARD OF COMMISSIONERS
OPPOSING RATE INCREASE REQUESTED BY INSURANCE COMPANIES**

Whereas, Camden County, as well as other counties in coastal North Carolina, is experiencing the hard economic times that are now gripping our nation; and

Whereas, unemployment rates are the highest they have been in years and many of the residents of Camden County and other coastal North Carolina counties are having difficulties make ends meet and maintaining the basic necessities of life; and

Whereas, insurance coverage is required in order to purchase a home or business and is vital to the recovery of our home construction industry and our economy; and

Whereas, any increase in the cost of insurance make is more difficult for middle and low income families to purchase homes, start businesses and participate in and fuel our economic recover; and

Whereas, historically, Camden County has been a “low claims” area and any insurance rate increase to Camden County residents will amount to a subsidy for other higher risk areas; and

Whereas, given these difficult economic times and the severe negative impact an increase in the cost of insurance will have on our citizens and our economic recovery, and given the low claims history of Camden County, the insurance industry’s request for a rate increase should be denied.

NOW, THEREFORE, BE IT RESOLVED, that the Camden County Board of Commissioners oppose the rate increase requested by the insurance industry for its customers in Camden County and request that the North Carolina Insurance Commission deny the insurance industry’s request.

Adopted this the 2nd day of February, 2009.

ATTEST:

Philip S. Faison, Chairman
Camden County Board of Commissioners

Ava J. Gurganus
Clerk to the Board

Set Public Hearing – Ordinance No. 2009-02-01 – An Ordinance Amending the Camden County Code of Ordinances – Business License Ordinance for Monday, February 16, 2009

Set Public Hearing – Ordinance No. 2009-02-02 – Amendment to Article 151.231 (Duplication of Subdivision Names) & Article 151.400 Drainage – Unified Development Ordinance of the Camden County Code of Ordinances for Monday, February 16, 2009

Set Public Hearing – Ordinance No. 2009-02-03 – Rezoning – UDO 2009-01-03 – For Camden County Board of Commissioners for Monday, February 16, 2009

Authorization to Collect – October 2008 Renewals in the amount of \$37,300.46.

STATE OF NORTH CAROLINA

COUNTY OF CAMDEN

TO: The Tax Administrator of Camden County (Oct. Ren.) Due 2/1/09

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Tax Administrator and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon personal property of the respective taxpayers in the County of Camden, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell personal property of such taxpayers for and on account thereof, in accordance with the law.

SOUTH MILLS	COURTHOUSE	SHILOH	TOTAL
14,244.17	14,394.65	8,661.64	37,300.46

Witness my hand and official seal this 2nd day of February 2009.

Chairman, Camden County Board of Commissioners

Attest:

Clerk to the Board of Commissioners of Camden County

This is to certify that I have received the tax receipts and duplicates for collection in the amounts as listed herein.

Tax Administrator of Camden County

Old Business - Agreement – French/West/Vaughan – Public Relations Service for OLF

Commissioner Sandy Duckwall made a motion to approve the contract effective February 1, 2009 for a period of six (6) months with the billing starting in January 1, 2009. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Old Business - Draft Private Legislative Act to Permit & Regulate Use of Golf Carts in Camden County

Commissioner Garry Meiggs made a motion to approve Representative Bill Owens submitting Bill Draft 2009-MA-9 [v.1] (10/6) to allow Camden County to regulate Golf Carts on streets in certain localities. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Old Business - Junk Car Interpretation

Following discussion, it was the consensus of the Board to send this matter back to the Planning Board for a recommendation.

Old Business - NCDOC DCA CDBG Infrastructure Hook Up Grant Agreement, Funding Approval & Signatory Form Cards for Grant No. 08-C-1844

Commissioner Sandy Duckwall made a motion to approve Grant Agreement No. 08-C-1844 in the amount of \$37,289.00, and authorize the Chairman and necessary staff to execute the grant agreement and funding agreement. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Commissioner Sandy Duckwall made a motion to approve Randell Woodruff, Clarann Mansfield, Sandra Jones and Ava Gurganus as individuals to sign the requisition of funds form. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

New Business - Tax Refund Request – Anthony Marcello

Commissioner Melvin Jeralds made a motion to approve a refund request, per the Tax Administrator Mary Rhodes recommendation, in the amount of \$282.84 due to payment was applied to incorrect bill and Mr. Marcello paid the bill twice.

New Business - Appeal Regarding CAPS Determination – 295 South Highway 343 by Daughtry, Woodard, Lawrence & Sarling

Planning Director Dan Porter stated that *as part of the adequate public facilities ordinance, if we deny a certificate of adequacy because the schools do not have enough seats in them, there are various things an applicant can do. He can wait for a period of time, wait for adequate seats in the school or pay an advancement of capacity. They also have the right to appeal and that appeal comes to the Board of Commissioners instead of the Board of Adjustment. I think that John might want to explain a little bit about how we need to proceed. We do have an applicant who was denied. I do not know whether he is here today or whether or not he is represented.*

Attorney John Morrison: *Are you represented sir? Do you have counsel with you? If I may Mr. Chairman, would you come up sir? Dan let him sit right there beside you. Mr. Chairman you are now, the Board is going to sit on an appeal; you are now coming a quasi judicial board. You are not a political Board anymore. The significance of that is I advised you on several other occasions. It is particularly difficult to be a County Commissioner because you got to understand what you are and any particular entity; sometime you are an executive body; other times you are a legislative body. For example we just went through consideration of an ordinance on junk cars. Now you are about to become a court. You are required when you sit as a court, quasi judicial body, to take evidence under oath. You are also required to allow for cross examination; for both parties to review the exhibits and you must apply the law as it is written and not your political persuasion as to what is popular or unpopular. There will be the right of an appeal I believe from you into superior court so we are having this transcribed, as everything is right now, which is very good. You may only base your decision on the evidence that you receive today. So before we go any further, does any Commissioner know anything about this case other than it is on your calendar? Great, so no one needs to recuse themselves. Finally, the applicant should have been adequate notice. What is your name sir? Mr. Moody you have received notice of this hearing today and have you had adequate opportunity to prepare?*

Mr. Moody: *We sent this letter dated January 22. We received close to ten (10) days notice.*

Attorney John Morrison: *Well, the Board can consider if you do not think you have had adequate time to prepare, the Board can consider allowing you to return at another date but that would be your option. Do you feel like you are prepared to proceed today?*

Mr. Moody: *As much so as any other day.*

Attorney John Morrison: *The record should reflect that the applicant is prepared to proceed and is not asking for a continuancy and has been given that opportunity. You are entitled sir to produce documents, exhibits and witnesses, as is the administration. With that being said, the burden would be upon the applicant but first we should have a resuscitation of what our current law is. Dave, if you would explain that please and make reference to the ordinance.*

Commissioner Michael McLain: *Does he need to be sworn in?*

Attorney John Morrison: *Not to explain what the law is but if he is going to offer testimony he would. What ordinance are proceeding under Dave?*

Permit Officer Dave Parks: *We are proceeding under the county's adequate public facilities ordinance, Article 153 of the Code of Ordinances.*

Attorney John Morrison: *What does that ordinance provide?*

Permit Officer Dave Parks: *The ordinance was adopted April 3, 2006. Under that current law then, the existing lots out there, it gave the existing lots one (1) year to obtain a building permit. The property in question at 295 South 343....*

Attorney John Morrison: *Would you just talk about the law right now.*

Permit Officer Dave Parks: *It gave one (1) year for vacant lots to obtain a building permit and after that year they would be susceptible to your ordinance.*

Attorney John Morrison: *Now, if everyone that is going to testify in this would come forward and be sworn in, please, from both sides.*

Clerk to the Board Ava Gurganus administered to oath to all that came forward to testify.

Attorney John Morrison: *For the record, Mr. Chairman, we are preceding under Camden Code of Ordinances 153.09 entitled Appeals Request. Mr. Moody you may present your case, sir.*

Mr. Moody: *Making this appeal this morning because of property we have at 295 South 343 here in Camden County. Ample Lending Group, which is the company that I work with, provided a construction loan to Danny Ford, American General Construction, which was later, name changed to OPM Construction back in early 2006. At that point and time I think ya'll adopted your CAPS ordinance on April 6, 2006 as spoken earlier. On July 6 Mr. Ford obtained his permit to build on the house which fell within one (1) year window. The first inspection being done on August 14, that year; the last inspection being done on February 19, 2007 at that point and time. There is a notation here that the permit was in void after February 20 because of the last inspection having being done at that point and time. Our contention is that work continued on the property in early 2008 and continued on after Mr. Ford had actually gotten his last inspection, even though a request was not put in for an inspection; work continued on the house and our company started foreclosure process on the property and in the interim, actually spoke with Mr. Ford and it was decided that while we were going through the foreclosure process, we would obtain someone else to come in and help us to continue on working on the property to get it so by the time we got to the actual date, we could actually do the foreclose sale, that we would be able to have a product that was fully finished, completely finished, ready for someone to move in. Due to the economic times, it is so much easier to sell a property that is 100% finished than it is a property that is unfinished. We hired Mr. Dave MacNamee as our contractor to come in and help us out with this. Mr. Ford was in complete agreement to us being able to do that and so forth. I think Mr. MacNamee called in the check the status of what was going on with the permit so on and so forth to get an inspection done and those types of things. The house is approximately 96 to 97% complete at the time that we actually hired Mr. MacNamee. Mostly cosmetic type items, putting in the driveway, doing landscaping, few minor things on the inside, doing a few minor repairs, doors damaged, few other minute things that really as far as the inspection here are not necessarily required but in order to get the CO, would be required for everything to be completely straightened out. Of course, we wanted, to do some cosmetic things, otherwise, to painting, so forth and so on to make the house a more appealing property for sale. When Mr. MacNamee contacted the permitting office, he was told that the permit expired and that he needed to provide something showing that work had been ongoing. He attempt to contact Mr. Ford who was the initial contractor and Mr. Ford provided him with several different invoices through the period of time. He actually presented those and was denied the, that they would not accept the invoices as proof because it did not have a letterhead, because it did not have a signature, that type of thing. I being involved in the building business for twenty (20) and a half years is a loan officer and had to complete many houses over the course of time and seen many invoices come across my desk and especially the last year with the economic conditions as it is, our company has, you know, we are foreclosing probably one hundred (100) houses right now. We have one hundred (100) in our possession and through this many of those houses have to be completed and I am the one who approves the invoices for the properties that are under my control and I get tremendous amounts of invoices who do not have signatures from whoever sent the invoice. Some of them are hand written on paper and delivered but if you know that it is an actual product that went into the house, you hired someone to do it, you don't have a problem with okaying the invoice whether it was written on a piece of paper or if it was generated on the computer. Some people have their business set up, done differently and of course, when that was denied, then the determination was made on December 16 that we were denied under the CAPS situation but Mr. MacNamee said that if there was another invoice out there, can I present it and of course, I think he spoke to Mr. Parks and he was given the nod that yeah it could be considered so he got Danny Ford to dig some more, dig some more, so what you've got that you can show us and I think that invoices were produced from Outer Banks Framing Contractors and this is a copy of that invoice here.*

Attorney John Morrison: *Mr. Moody, excuse me. You may wish, I am not going to tell you how to try your case obviously, but you may wish to hand up exhibits from time to time and if you give it to the Clerk, she will mark it. Madam Clerk you should mark these sequentially as Petitioner's Exhibit 1,2,3 etc.*

Mr. Moody: *I would like to present this invoice here into evidence as a copy of invoice number 100 notation to the fax documentation on here that it was received by fax at 8:57 a.m. on January 7, 2009 and then exhibit 2 would be an additional copy of that same invoice that was received at 10:16 a.m. on January 7, 2009. The only difference being that the second one, an officer of the company of Outer Banks Framing LLC who originally sent the initial invoice in, marked paid in full, \$131.08 and she made a notation, hope this clears up your records thanks Becky and Becky being someone who works for Outer Banks Framing and Contracting. I'd like to present these two (2) as exhibits.*

Attorney John Morrison: *If you would Mr. Moody, tell her which one you would like marked one (1).... Now Mr. Chairman, I would make a recommendation at this time before Mr. Moody proceeds any further than you review these documents so that you will know what he is talking about. Madam Clerk, once these documents are introduced into evidence, you will maintain that they become the property of the county and you will need to maintain these records.*

Mr. Moody approached the Clerk with additional documents.

Clerk to the Board Ava Gurganus: *Mr. Morrison, the gentleman would like to submit other documents but they are already in their Board packets.*

Attorney Morrison: *Well, I think you should allow him to submit his documents and what is in the Board packet is not in evidence and that won't be a concern. So you would make them sequentially, Petitioner 3, 4, 5, whatever. Now Mr. Chairman, everyone on the Board having seen these documents, it is now incumbent upon you to hear from the building department whether they have any objections to having these documents introduced into evidence and then you would need to rule upon that. I assume you do not. There is no objection from the county, so Mr. Chairman, as to Petitioner's exhibits 1 and 2 you will need to make the record clear that you have accepted those into evidence for consideration. Let them be accepted is all you have to say.*

Chairman Philip Faison: *Yes, I accept exhibit 1 and 2 at this point for consideration.*

Attorney John Morrison: *Now, you are submitting other documents.*

Mr. Moody: *I have submitted three (3) others. It will be exhibit 3, 4, and 5. Those documents are just simply copies of invoices that were provided, maybe some that you may have copies of in your files and everything but are just exhibits showing that work was ongoing during this period of time even though an actual inspection had not been called for. These are things that show that work was going on during that period of time between here and hopefully give us more clarification that work was continuing.*

Attorney John Morrison: *Mr. Moody has the planning department seen those documents?*

Mr. Moody: *Yes sir.*

Attorney John Morrison: *Have you seen those Dave? Do you have any objections to those documents? The planning department has no objections Mr. Chairman. You would now need to make a decision on exhibits 3, 4 and 5 as to whether they will be received into evidence. There being no objections, I would suggest you would receive them into evidence.*

Chairman Philip Faison: *Yes, would like to receive exhibits 3, 4 and 5 for the record.*

Attorney John Morrison: *You look a lot like Chief Justice Roberts in that chair.*

Chairman Philip Faison: *Thank you counselor.*

Attorney John Morrison: *With this beautiful courtroom, maybe every time we sit as a quasi-judicial board, you guys could get those wonderful white wigs and drapes...*

Mr. Moody: *As I can hope the board can see from these documents, that, like I said, we had to go back to Mr. Ford who was originally doing the work, to obtain these documents so on and so forth and this is what he provided to us in order to be able to plead our case before the county and just initially for the inspection board and so forth and then of course we were denied because*

of some problem they had with the documentation. I'm not sure exactly why but I assume they will present their side of it here shortly. From my standpoint, of course, my company's standpoint, we are here with a project that is 97 98% complete, we just want to get it complete. During this whole complete period of time Mr. Ford filed bankruptcy, so it took a long time to get it from step one to where we could get moving on the property and everything and once we found out Mr. Ford was going to file bankruptcy that is when we talked with him and we had kind of an open communication line and he contacted me and he told me what he was going to do, that he was filing bankruptcy and so forth and that is when I talked to Mr. MacNamee about finishing up the project because he was finishing up a couple of other projects around the Elizabeth City area for me and I talked to him about doing it and also spoke to Mr. Ford about his agreement about allowing that to go on ahead and happen and he was completely in compliance you know agreement with us being able to proceed forward. With the project 97 98% complete, it just seems like a huge financial burden for our company to have to take on because of what I see as proof that work was continuing. The only thing that hadn't happened was that a inspection called for which would have renewed the, automatically renewed the permit for another year. But those particular items were not items that needed immediate inspection because they were small items that would have been covered under the occupancy permit inspection when it occurred and also that is my contention at this point and time that through this thing that work has continued, it has never ceased, it may have been staggered in it's what happened when and time periods between it and so forth, but the documentation I hope will show that work was ongoing and that my request is that we be allowed to have a renewed permit so that we can continue to finish this work and get a house here in Camden County that someone can live in and enjoy. Thank you for your time.

Chairman Philip Faison: *Can I ask a question. This may be of the contractor but David, were you aware that you had a period of one (1) year to make the second inspection of some sort on this project.*

Attorney John Morrison: *Is this gentleman under oath? Ok, go ahead.*

David MacNamee: *I wasn't the contractor at that time.*

Mr. Moody: *Danny Ford was the initial contractor.*

Chairman Philip Faison: *Danny Ford is not here, ok.*

Mr. Moody: *He was the initial contractor and like I said, that is why we provided this because when you are coming in from a situation like we were, you know, we got a guy who is filing bankruptcy and so forth, and the time it takes through the courts, we had to go through the court to get a lift to stay in order to continue on things, who did the initial service that was delayed because of a technicality through the Clerk's office here, technicality in the service they would not accept so we had to reserve and once we got reserved then we had to go through the lift to stay which took awhile but even those things were after January 2008 which would have been a period of time where Mr. Ford, I think the last work was done on the property and invoice reflects that from Outer Banks and so that work was less than a year ago when we actually applied for the permit extension or renewal.*

Attorney John Morrison: *Do you have any other witnesses or exhibits you would like to call?*

Mr. Moody: *No sir, not at this time.*

Attorney John Morrison: *Mr. Moody, if you would, and I'm sure you will pay careful attention to the evidence that the planning department will give. At the end of that evidence, you will be given the right to cross examine to ask questions. You will also be given the right to offer rebuttal evidence. That was evidence that was specifically contradict something that was proposed in the evidence of the planning department. Before we go further, Dan or Dave do you have any questions you wish to ask either of these gentlemen that has testified?*

Planning Director Dan Porter and Permit Officer Dave Parks: *No sir.*

Attorney John Morrison: *At this point, Mr. Chairman, you should now receive evidence from the planning department. While he is coming up, let me explain the burden of proof here. The burden, that is the responsibility, is upon the petitioner, the appealing party to persuade you that what the county has done is not correct. This however is not a criminal court so they do not have to prove their case beyond a reasonable doubt. Beyond a reasonable doubt is the language of the criminal courts. Their burden is as by the greater weight of the evidence or the preponderance of the evidence. That simply means more likely than not, probably, their version*

is true but it their burden to persuade you. If they do not persuade you, if you can not determine where the truth lies, then it would be your obligation to affirm the county. If you are persuaded it would be your obligation to rule for the petitioner.

Chairman Philip Faison: *Thank you counselor.*

Permit Officer Dave Parks: *Yes, Mr. Chairman, Board, in the case of American General Contractor, they applied and received a building permit for a residential structure at 295 South Highway 343 on July 6, 2006. At that time they were exempt from the adequate facilities ordinance as the lot was created prior to the adoption of the ordinance and they had until April 2, 2007 to obtain that building permit. Inspections were called for and completed on; first inspection was August 14, 2006, and the last inspection was called in for was on February 19, 2007. The permit was void on February 20, 2008 as no further inspections were called in. The owner inquired to apply for a new building permit at that time and at time included the CAPS determination for your adequate public facilities ordinance. On December 7 the new property owner called in for an inspection and was informed that permit had expired and permit was required and they were subject to the adequate public facilities ordinance. In an effort to accommodate the owner, the building inspector, Mr. Larry Payne, had some leniency in trying to work with these people with the contracts and that to provide some receipts to show us that work had continued on that and if Larry would correct me if am wrong or right, state code does not say he has to accept those receipts. The building permit does expire if no inspection is called in within one (1) year. Larry, would explain what the state had said to you as far as the continuation of work*

Building Inspector Larry Payne: *I have talked to the Department of Insurance and one of the engineers Mike Page and explained the situation to him and I said that I know the state code say that from the date of the permit that is issued, and my signature is on it, you have six (6) months to have that first inspection and if you don't have that inspection it voids by state law. If you have that inspection, you have twelve months to have the next inspection and if you don't have that inspection, by law, it voids. I asked them, we've got the adequate facilities fee, is there something I can do within this law to help out a little bit and he said that if we could determine that work had continued even though the inspection had not been done and the last inspection we had done was an insulation inspection and we know from there the sheetrock goes up, the painting, the trimming, the cabinets and electrical trim outs. So walking back into the building I can see that that has been done but we gave them that twelve (12) months from February 20 again to get that inspection done or continued. There are some things that haven't been finished in the house. Last time I was there a slab on the front porch had not been poured yet. There were some construction problems in the attic that had to be dealt with. I've got a little leniency but to me I have to see something that was one in the last twelve (12) month period.*

Permit Officer Dave Parks: *Would you say that the house, how far along was the house as far as completion in percentage wise.*

Building Inspector Larry Payne: *95 96%.*

Permit Officer Dave Parks: *Thank you. On December 16, 2008 Mr. MacNamee, contractor for Ample Lending Group applied for the building permit. Mr. MacNamee provided three (3) receipts. One receipt was from Guy C. Lee Building Materials which invoice was dated on February 26, 2007. Staff would like to enter that as evidence.*

Attorney John Morrison: *Madam Clerk, if you would mark these Respondent's exhibits, so those would be R-1, R-2, R-3, etc. and Dave if you would please, hand up the exhibit and explain to the Board what you contend the exhibit shows.*

Permit Officer Dave Parks: *The receipt from Guy C. Lee Building Group, the date of that receipt was February 26, 2007.*

Attorney John Morrison: *This is going to be R-1, right?*

Permit Officer Dave Parks: *Yes.*

Attorney John Morrison: *Ok, if you would like that be marked R-1. Let Mr. Moody see that as well if he had not.*

Commissioner Michael McLain: *Isn't that the same as his petitioner's number 3.*

Attorney John Morrison: *The county is offering it as well. Alright, if you would hand up R-1 Madam Clerk. Is this a duplicate of some of the*

Permit Officer Dave Parks: *Yes, it is a duplicate...*

Attorney John Morrison: *It is a duplicate in what is To what extent, was it duplicate of petitioner's previous exhibit 3.*

Commissioner Michael McLain: *Three (3).*

Attorney John Morrison: *Alright, Mr. Chairman, this having been received into evidence on behalf of the petitioner, I think it would be automatic that you receive it on behalf of the respondent. Now, what is your contention, what does this exhibit show, what is the importance?*

Permit Officer Dave Parks: *This exhibit shows a listing of building materials, the address of the property it was going to, and we just want to agree that we have accepted that as a valid receipt. The date of the receipt was February 26, 2007 so that right there pushed the permit up to February 26, 2008, which made that permit valid up through that date. Also Mr. MacNamee had submitted two (2) more receipts, one (1) from Pitts Chapel Plumbing and the other one from a Dora Dalcarmen Menendez. Staff would like to submit those as evidence.*

Attorney John Morrison: *Alright, if you would have the Clerk mark these as respondent's exhibits 2 and 3. Are these also duplicates? The record should reflect Mr. Chairman that the petitioner has seen the copy of what you are about to offer. Do you have any objections to it sir?*

Mr. Moody: *No sir.*

Attorney John Morrison: *If you would offer those Dave. The Clerk should mark them. Then you would submit them to the Board Madam Clerk. If they are also duplicates, Mr. Chairman, then I think you should receive them into evidence as well. Now sire while these are being submitted to the Board, what is your contention to their submittals.*

Permit Officer Dave Parks: *If you would look at the receipts. There is actually a duplicate copy of one in there where we rejected it because there is no address on it on the first one that tied it in to the property. Mr. MacNamee faxed another copy in with a handwritten address to the property. The receipts themselves, we questioned the validity of the receipts. If you look at the top portion of those receipts, you will see a stamp marked Draft. If you look at all three (3) receipts, all the receipts together, it looks like the receipts were duplicated in our view. As the position of the Paid stamp that is up there, is in the same location on each one. So we questioned the validity of the receipts, themselves. We informed Mr. MacNamee that would not be accepted. Based off of that the building permit had to be processed so on December 23, 2008 I determined that the CAPS applied to the building permit and that the CAPS was denied due to over capacity of your high school. On January 5, 2009, I did receive another fax from Mr. MacNamee, another copy of a receipt from Outer Banks Framing and based off what we got there, I did not know whether to accept the validity of the receipt or not. Mr. Porter, the Planning Director, took it to the adequate public facilities meeting...if you want to explain that to them...*

Attorney John Morrison: *You have been sworn Dan?*

Planning Director Dan Porter: *Yes. Mr. Chairman, we did have some questions with regards to the invoices we received in that it happened that I had a coordinating committee with the adequate public facilities committee, which is a joint committee between the school system and the county that consists of the County Manager, Finance Officer and myself, School Superintendent, his finance people and their facilities person as well as either the Chairman or the Chairman designee for each one of the Boards, the Board of Commissioners and the School Board. As part of that discussion, we talked about the issue of expiring permits and how we dealt with them and I explained that we run into these situations where permits are expiring and people are coming in subject to the adequate facilities ordinance and the CAPS determination, and I happen to take this invoice that I believe that was submitted recently that says Invoice Number 100 and just passed it around to the committee and we did not take a vote or anything but it was a general feeling that it did not appear to be a valid invoice. It just didn't seem to be, didn't have signatures on it. The fact that it was Invoice Number 100 was a little disconcerting but at any rate, like I said they did not take a vote on it but it was a general feeling that it did not a valid invoice and we did not have any other evidence to go on with regard to that.*

Commissioner Michael McLain: *Mr. Chairman, could I ask the County Attorney a question? Mr. Morrison, I believe I attended that meeting. I don't remember actually seeing a copy of the invoices. There was a discussion of them, but I do not remember seeing the invoices. I didn't know if that would create a problem. I just put a disclosure that I attended that meeting as a County Commissioner.*

Planning Director Dan Porter: *I did show the invoice but.....(talk over by Attorney Morrison)....*

Attorney John Morrison: *Let me address the Commissioner's question. As I recited at the outset you are sitting as a Court. Therefore, you must base your decision only upon the evidence that is presented to you this morning and nothing else. If you have formed any opinion, as to what the outcome of this proceeding should be prior to hearing beginning, and can not remove that completely from your mind and only you know whether you can do that or not, then you should recuse yourself because it obviously it would not be fair if you had a preconceived notion based on something that you participated in or something you experienced prior to this date. If you can sit with a completely open mind on the evidence that you hear today and no other evidence, then you may sit on this board.*

Commissioner Michael McLain: *Okay, well, I state that I don't remember actually receiving any copy of it and there was a general discussion and did not know the parties involved.*

Attorney John Morrison: *Well, the question would be, do you have some impression prior to this case beginning as to how it should turn out.*

Commissioner Michael McLain: *No sir, I do not.*

Attorney John Morrison: *You have a completely open mind then.*

Commissioner Michael McLain: *Yes sir.*

Attorney John Morrison: *Then you would, then you should not recuse yourself. And, Mr. Chairman, for the record, the Board should give no additional weight to anything Commissioner McLain's says to any other member of this Board.*

Chairman Philip Faison: *Any other comments, questions from the Board?*

Attorney John Morrison: *I believe I interrupted Dan.*

Planning Director Dan Porter: *I was basically finished, but I will say that when I showed it to the committee, I basically showed it around. A couple of people may have taken a look at it, we described it but they did not have a copy of it in front of them.*

Permit Officer Dave Parks: *We denied the CAPS application based on the receipts that were given at the time as evidence and we questioned the validity of those two (2) receipts.*

Attorney John Morrison: *Alright, that being your presentation..*

Permit Officer Dave Parks: *Yes.*

Attorney John Morrison: *Mr. Moody you may now ask questions if you desire. You are not required to but you may ask questions of anyone who testified on behalf of the planning department and if you just call them up, they will have to submit to your questions.*

Mr. Moody: *I think I.....inaudible (not at microphone).....*

Attorney John Morrison: *Excuse me sir, you can ask them questions but not make statements. If you have a question you want to ask them you can ask them.*

Chairman Philip Faison: *Mr. Moody, would you go to the mic so we can hear you. Thank you.*

Mr. Moody: *You did say that based off the, what was told to you guys by the Department of Insurance as far as the, you had the ability if you chose to, to accept these invoices as proof that work had continued.*

Attorney John Morrison: *He is asking you the question right now, so you have to answer him the best you can.*

Permit Officer Dave Parks: *The Department of Insurance gives the Chief Building Inspection discretion whether he would want to accept the receipts. He did not have to accept the receipts during that time, after that twelve (12) months, the Chief Building Inspector could say no, you need a building permit, no receipts will be taken, but they left it to his discretion as far as whether he wants to accept the receipts to show continuation of work.*

Mr. Moody: *And by accepting one (1) from Guy C. Lee, you did say ya'll were basically, you agreed that that one extended it out till February 2008.....*

Permit Officer Dave Parks: *February 2008 and at that time the permit expired.*

Mr. Moody: *Ok. If it expired in 2008, and we are in January or very first part of now, then where would that*

Permit Officer Dave Parks: *No sir, the date on the receipt was 2007 so that extended it out to 2008 to where an inspection hadn't been called in the first place so February 26, 2008 it voided again.*

Mr. Moody: *And I think it was this gentleman here that actually said he went out did an inspection and I was going to ask him...*

Attorney John Morrison: *Do you have any other questions for Mr. Parks.*

Mr. Moody: *No, not at this time.*

Attorney John Morrison: *Now, who did you want to ask questions.*

Mr. Moody: *This gentlemen here.*

Chairman Philip Faison: *Larry, would you come to the podium please.*

Attorney John Morrison: *You are still under oath Mr. Payne.*

Mr. Moody: *You said that you went out and inspected the house last time that you saw visible work from the last inspection that was actually done when you said you went out to do the insulation inspection. When you went back out to the property, that you saw that drywall installed, painting had been done and the house was approximately 95 96% complete.*

Building Inspector Larry Payne: *Yes. Actually it wasn't an inspection. It was a courtesy call.*

Mr. Moody: *Ok, courtesy call, which I appreciate you doing that, cause it helps out in this business tremendously. You made mention to the fact that there was some problems, some engineering problems that needed to be corrected upstairs, right, is that correct.*

Building Inspector Larry Payne: *Yes, Also final grade problems.*

Mr. Moody: *That was some things that would typically have been handled if they were on a list or something and they would have been handled and covered when you came back and did the CO inspection, occupancy permit inspection.*

Building Inspector Larry Payne: *If it is within the valid dating, then prefinal inspection would have picked up the grade problem. You actually would have walked up and saw that a portion of it was wet and there would have no inspection at all but if the porch had been there and grade problems had been identified that would have been eventually taken care of before we turned power on.*

Mr. Moody: *And this problem with the engineering you are talking about now, would that have been something that should have been caught in the framing inspection or had it actually been caught in the framing inspection and notated but yet you had not seen the evidence of it being corrected.*

Building Inspector Larry Payne: *The rough in inspection was not done by me. It done by my other inspector. When I did the courtesy inspection I saw some framing problems in the attic which was the floor problems on the beams and that is when I recommended that we needed to get an engineer in there to take care of this, is it something that should have been caught on rough in inspection, probably yes. But anything before we CO the building can be caught.*

Mr. Moody: *Had Mr. MacNamee at any point and time let you know that he has actually been in contact with an engineer and got the engineers recommendations on how to correct these problems and assured you that those would be corrected.*

Building Inspector Larry Payne: *I had a phone conversation, yes.*

Mr. Moody: *So basically the inspectors office at this point and time there only contention is the validity of some of these invoices. Now....*

Attorney John Morrison: *Now, wait just a minute. I'm sorry. I know this is cumbersome. You will certainly get to make your argument but right now do you have any further questions for Mr. Payne?*

Mr. Moody: *I just asked him..that was in the form of a question.*

Attorney John Morrison: *Repeat your question to him again.*

Mr. Moody: *I'm asking if it is your office contention that some of these invoices that were presented as evidence today particularly the one from the Dorsa, not sure what.....Menendez, was not valid but as to the one from Outer Banks Framing where they actually installed the steps, the last one Mr. MacNamee delivered in early January 2007, is it your department's contention that it is not a valid invoice.*

Building Inspector Larry Payne: *Honestly, I haven't seen that one. The invoices that I had seen, yes, I was questioning but that one from Outer Banks Framing I have not seen today.*

Mr. Moody: *Have you seen it today?*

Building Inspector Larry Payne: *Over his shoulder yes.*

Attorney John Morrison: *You may show it to him if you would like.*

Mr. Moody: *I am directing my question here to Mr. Payne in regards to my exhibits 4 and 5. One (1) shows, no excuse me, I've got the wrong one. Exhibit 1...*

Attorney John Morrison: *Should be P-1 and P2.*

Mr. Moody: *Right, which shows Outer Banks Contracting on January 25, 2008 where continued work and I think by even past this you showed that you did say that the Guy C. Lee one which back here was valid and I'm asking you, do you think that by looking at these are they valid or invalid.*

Building Inspector Larry Payne: *Looking at the invoice number, I think it is invalid.*

Mr. Moody: *So you are basing you decision 100% on a number, as a numerical number as an invoice.*

Building Inspector Larry Payne: *Not 100% my decision no.*

Mr. Moody: *My question is what are, if it not solely on the number.*

Building Inspector Larry Payne: *It is a combination of all the invoices.*

Mr. Moody: *I am not speaking about other invoices. I am speaking of the validity of this particular invoice. Invoice number 100 from Outer Banks Framing LLC dated January 25, 2008, marked paid in full on 01-31-08 by Becky, who is an employee of Outer Banks Framing.*

Building Inspector Larry Payne: *By looking at that invoice, no I do not think it is valid.*

Mr. Moody: *No more questions.*

Attorney John Morrison: *Do you have questions for any other witness sir.*

Mr. Moody: *No more questions.*

Attorney John Morrison: *And I believe there was no further evidence from the Planning Department. And, now, at this time...*

Chairman Philip Faison: *Can I ask a question at this time.*

Attorney John Morrison: *Yes, sir.*

Chairman Philip Faison: *Clear something up for me....Larry, can I ask you a question. This is directed to you. What is the difference from a courtesy inspection and a inspection of record which I guess would be someone calling in and scheduling a time and date to meet you there.*

Building Inspector Larry Payne: *A scheduled inspection would be as you say called in and we schedule the inspection on a valid permit. Not a valid permit then it would be a courtesy inspection. That is the only way I can log it in as an inspection other than a courtesy.*

Chairman Philip Faison: *So just dropping by the site, riding by and dropping by and viewing something from time to time because you are on the way, that would be a good example of a courtesy inspection.*

Building Inspector Larry Payne: *Not really. As long as it is a valid permit, the state allows me on the property during my normal business hours and that would be just continuing inspections. If we see something that catches our eyes, we drive by and we can stop and say you need to fix this or do it this way. A courtesy inspection is basically that. It is an inspection done without a permit in process.*

Chairman Philip Faison: *You cleared that up for me. Thank you.*

Attorney John Morrison: *Mr. Moody, as a result of that testimony, listed by the Board, you now have a right to cross examine him again but only on the topic that the Chairman asks.*

Mr. Moody: *I have one question. Does you partner from time to time ever or has he ever to your knowledge, ever gone out and when a builder called in who was not ready for, as an example, rough in inspections possibly and he may have called because he had a question on his mind or something going on and he asked you or someone in your department to stop by and give him your thoughts on it beforeinaudible.*

Building Inspector Larry Payne: *Yes, all the time.*

Mr. Moody: *Do you consider that a courtesy call....inaudible.....or aactual inspection...inaudible.*

Building Inspector Larry Payne: *The permit is valid so it is an inspection. Inspection will be noted and what happened, and what was discussed.*

Attorney John Morrison: *Based solely on this, do you have any questions you want to ask.*

Building Inspector Larry Payne: *No.*

Attorney John Morrison: *My advice to you is you sit down very quickly....At this time Mr. Moody, you may but are not required to offer rebuttal evidence. That would be not restatement of your entire case but if you have evidence like in the form of a witness or exhibit to rebut, or to contradict, anything the county presented that you have not already presented, you may do so.*

Mr. Moody: *inaudible...not at mic.....Mr. MacNamee just a minute.*

Attorney John Morrison: *Ok. This is rebuttal evidence and contradicting something the county did that you have not already presented.*

Mr. Moody: *And I don't know if you consider this contradictory but...*

Attorney John Morrison: *You can only ask him questions now.*

Mr. Moody: *Mr. MacNamee, you did speak with Mr. Parks in regards to the county accepting an additional invoice after determination is made and were you told at that point and time that if you could present a valid invoice that they would consider it.*

Mr. MacNamee: *By phone.*

Mr. Moody: *And did you in fact produce an invoice.*

Mr. MacNamee: *I faxed one that day or the next day, yes.*

Mr. Moody: *And you received that invoice from who.*

Mr. MacNamee: *Danny Ford.*

Mr. Moody: *Who was the original contractor. Is that correct?*

Mr. MacNamee: *Yes.*

Mr. Moody: *Were you told at the time that it did not have a signature or any notation on it and they were not going to accept it at that point and time.*

Mr. MacNamee: *It probably was because I followed up on it 100%.*

Mr. Moody: *So you did present a second invoice as we have listed as exhibit 2, peoples exhibit 2,*

Attorney John Morrison: *Petitioner Exhibit 2.*

Mr. Moody:.....*as showing that it had been marked paid in full as of January 31, 2008 and signed by Becky.*

Mr. MacNamee: *I called in and told the county that requested either one to sign it and inaudible.....would accept it and I got one that was signed and faxed it over to Mr. Parks.*

Mr. Moody: *And that was on January 7.*

Mr. MacNamee: *In or around.*

Attorney John Morrison: *Dave, you have any questions you wish to ask this gentleman.*

Permit Officer Dave Parks: *Yes, Mr. MacNamee, after receipt of the inaudible...did I not inform you that we did not consider that valid andinaudible.....*

Attorney John Morrison: *There being no further evidence from either side, is that correct? Mr. Chairman, at this point, you may entertain brief summations from either side. You do not have to, gentlemen, frequently this in not done in these types of proceedings but if you want to sum up your position once again you may do so. Mr. Moody do you have anything further you would like to say be way of argument or persuasion to this Board.*

Mr. Moody: *I would like to address the Board in what I deem as a preponderance of evidence on our behalf. The County did accept an invoice from Guy C. Lee and carried the date from the date the actual last physical inspection was done on the job was January 2007. When this invoice was produced, they did carry it out to February of 2007, the actual permit, which would have given a year from that date, which would have been February 20, 2008. It is our contention that work was still going on at this point and time and that by the evidence that we provided the invoices and so forth, that they showed that work was continuing on. We do appreciate the county's courtesy call, all of those things, great little county here and I appreciate what they have done but I do believe that the preponderance of evidence will show work has continued on and we in good faith unbeknowing to us have tried to follow the proper procedures in painting and moving on to get the building permit extended, reinspected. And I do want to say that Ample Lending Group does not own this property. This property is still in the name of Outer Banks,not Outer Banks, American General Construction, which they changed their name to OPM Construction. They still technically own this property as we have not had a foreclosure sale at this point and time.*

Attorney John Morrison: *You should not consider that. That was not offered into evidence. You are just arguing now. You are not presenting.*

Mr. Moody: *That's all I have to say and gentlemen, I thank you for your time.*

Attorney John Morrison: *Alright, Dave.*

Permit Officer Dave Parks: *Mr. Chairman, Commissioners, we in the Planning Department are faced with decision making every day. We as a department tried to work with the public in every essential way to get the issues resolved. We worked with Mr. MacNamee on this project far more than we should have, but we did and based off what evidence was submitted, is why we had to deny the CAPS application. Thank you.*

Attorney John Morrison: *Mr. Chairman, at this time you must now reach a decision and these are your options. You may affirm the decision of the administrator in which case you will be ruling against the Petitioner; you may remand, that is send it back and you want further*

evidence gathered and if it was not able to be resolved administrately, then it would come back to you. Or you may issue a CAPS but you will do this only if you find the CAPS should have been issued by the administrator. Now, let me explain two (2) additional factors: first, is how you judge the evidence. You are entitled to believe everything that any witness said. You are entitled to believe nothing that a witness said. You are entitled to believe some of what the witness said and disbelieve some of what the witness said. In doing this you are bring to bear your common sense and your business judgment or the judgment you would apply to your personal affairs in the community. Finally, you will note that I have taken an active participation in this hearing as your counselor; I counsel to the Board of Commissioners. I did not represent the Planning Department, I do not represent Mr. Moody, I am not adverse to the Planning Department, I am not adverse to Mr. Moody. I am your resource so that the questions of law and procedure may be answered by a neutral party, neutral as between the Planning Department and Mr. Moody. Now, you can ask me questions for guidance on evidence and procedure and law. It is totally inappropriate for me to comment of the evidence itself whether you should be persuaded or not. You are not exactly a jury so your deliberations must be public and Mr. Chairman, have at it.

Chairman Philip Faison: *My question to you Mr. Counselor....*

Planning Director Dan Porter: *May I ask the attorney one thing...*

Chairman Philip Faison: *Yes.*

Planning Director Dan Porter: *Does this require a simply majority...*

Attorney John Morrison: *A simple majority.*

Chairman Philip Faison: *I'm sorry, what was the answer to his question.*

Attorney John Morrison: *You do not have to be unamouious, majority.*

Chairman Philip Faison: *Would you suggest that Madam Clerk poll the board on this or do we take each one separately....*

Attorney John Morrison: *What you may want to do, you deliberations have to be public, you may want to discuss the evidence amongst yourselves. You may want to trade ideas back and forth. You must do that publically. You can not retire like a jury to a jury room or everyone may feel like they are ready to vote. That is up to you.*

Commissioner Sandy Duckwall: *Mr. Chairman, I am have a question of the County Attorney. I think you stated at the begining that we have to base our decisions strictly on what the law is.*

Attorney John Morrison: *Yes, and what was presented to you this morning.*

Commissioner Sandy Duckwall: *And, Mr. Payne stated that if an inspection had not occurred within twelve (12) months, then the permit expires. Can we take that as the law.*

Attorney John Morrison: *You have to decide whether was that evidence convincing to you from Mr. Payne.*

Commissioner Sandy Duckwall: *And, but then the state did say that he could allow an exception if invoices showed that work had continued, so it really boils down to invoices. Our decision boils down to invoices, or the law.*

Attorney John Morrison: *I believe the case that was put to you by the county, whether it is true or not up for you alone to decide but the county felt that the invoices were not valid. In other words, the year had expired. The county felt that the invoices were false or defective in some way and no work was done within that year period. Now, whether you also heard evidence to the contrary from Mr. Moody, but it seems that is the crutch of the case and it is whether you are convinced of the county's position or you are convinced of Mr. Moody's position. I remind you again that the burden of proof, that is the responsibility to prove the case, lies with the appealing party. That would be Mr. Moody.*

Commissioner Sandy Duckwall: *Thank you.*

Chairman Philip Faison: *Anyone else have any comment.*

Commissioner Michael McLain: *Mr. Chairman, my question is, if the crutz of the case, tell me if you can't answer this, revolves around the invoices, and the parties issuing the invoices, we*

haven't heard, and I'm not quite sure Mr. Moody actually has this, are these legitimate businesses, framing company registered by the Secretary of State of North Carolina. We have not heard any of that type of evidence let alone the question of whether he actually brought Dora Menendez, if she legitimate, or the framing company should he have brought them as witnesses at this particular case or you can't answer that.

Attorney John Morrison: *Yes, I can. I don't believe it would be incumbent upon Mr. Moody to show you that these businesses were necessarily registered with the Secretary of State. They could be sole proprietors, nor necessarily corporations or not necessarily LLC. I don't think that should be of concern to you.*

Commissioner Michael McLain:*The framing contractor's, I believe, invoice said LLC so that should be registered with the Secretary of the State.*

Attorney John Morrison: *Alright, that could be registered with the Secretary of State. I still don't know that that is crucial to your deliberations where they were in fact an LLC or not and whether they are registered with the Secretary of State because they could be not registered for what ever reason but they could have still provided a service for which there was a bill. It would only be when it exceeds \$30,000.00 that you have to be a licensed contractor and that kind of thing but what would be of concern or not, is for you along to decide. Remember I told you, you are to bring your common sense to bear on this. If you feel like because you did not hear from Mr. or Mrs. Menendez or Outer Banks Framing that you are not convinced or you can't tell where the truth lies then it would your obligation to find for the county. But whether that is important to you, is for you to decide alone. Again, you use your common sense and the business judgment you would use in your everyday important affairs.*

Commissioner Sandy Duckwall:*Mr. Chairman, I am concerned that I would think that there would be cancelled checks showing payment of invoices and that could be matched up to invoices. I wished that had been produced.*

Commissioner Michael McLain:*Also Mr. Chairman, I do not have the invoice for the framing contractor. I do not think we were provided for that, but if you look at the invoices that were presented to us, the Pitts Chapel and the Menendez invoice, one issue that I have with the invoices, I notice very clearly the commas and periods are placed exactly the same in both invoices, not that that is a governing factor but it is very, very strange. I don't have the one from the building contractor as to the county's contention that these are in fact who or may not be legitimate invoices. I haven't seen any other evidence that these are in fact nothing but a printed out invoice after the fact.*

Chairman Philip Faison:*Any other comments from members of the Board.*

Commissioner Michael McLain:*Could I see the framing invoice.*

Attorney John Morrison: *You can only see the evidence that has been offered.*

Commissioner Michael McLain:*That was offered into evidence I believe.*

Chairman Philip Faison:*While he is looking at that counselor, let's review our choices here if we can, ok.*

Attorney John Morrison: *If I can Mr. Chairman, may I offered up.....inaudible....*

Chairman Philip Faison:*Can I ask you a question right now.*

Attorney John Morrison: *Yes, sir.*

Chairman Philip Faison: *Affirm the decision of the administrator would be finding for the county. Remand would be sending it back to the county and issuing a CAPS....*

Attorney John Morrison: *You could sending it back to the Planning Department and tell them that you wanted to gather something other information for their consideration and if that does not resolve the matter, for example this certain other additional information convinces them that they should rule in favor of Mr. Moody then, it would come back to you and the information that you have ordered them to gather would be in front of you. That is your right to do that. I would caution you however that is a cumbersome procedure but you certainly may do that.*

Chairman Philip Faison:*Any other comments from the Board at this time. Do you understand the situation we are in before us. We've got one of three decisions. Do we handle these separately.*

Attorney John Morrison: *You should consider a motion, if there is a motion to affirm or a motion to remand, a motion to decide in favor of Mr. Moody. Then one of you should make that motion and vote upon.*

Commissioner Michael McLain:*I have one other question Mr. Chairman. Also I guess, what is the definition of discretion. If it is up to the building inspector to have discretion, what would be the definition of discretion.*

Attorney John Morrison: *Where is it common in their every day meeting unless it is a term or art; this would not be a term of art so you must give to discretion, the dictionary definition as you understand it.*

Commissioner Melvin Jeralds: *Mr. Chairman, I make a motion that we affirm the ruling that the Planning Department based on the evidence as presented.*

Chairman Philip Faison:*This is a motion on the floor. Does everyone understand. Do we call a question.*

Attorney John Morrison: *Yes, you would now vote on that and this Madam Clerk should be polled at the outside.*

Chairman Philip Faison:*Madam Clerk would you poll the board.*

The Clerk polled the Board and reported to the Chairman that the motion passed five to zero.

Attorney John Morrison: *The result is that you have affirm the decision of the Planning Administrator. You will correspond that effect to Mr. Moody and advise him of his appellate rights.*

Budget Amendment 2008-09-BA033

Commissioner Sandy Duckwall made a motion to approve budget amendment 2008-09-BA033. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

**2008-09-BA033
CAMDEN COUNTY BUDGET AMENDMENT**

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2009.

Section 1. To amend the General Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Revenues:			
10-320400-434500	Local Option Sales Tax Art.39		\$137,000
10-320400-434501	Local Option Sales Tax Art.40		10,000
10-320400-434502	Local Option Sales Tax Art.42		15,000
10-320400-434503	Local Option Sales Tax Art.44	109,000	
10-320400-435300	Pet Licenses	80	
10-330400-435102	Jail Fees		1,500
10-340400-436920	Sales of Recyclables	400	
10-350400-438100	Leased Property		7,000
10-350400-438300	Sale of Fixed Assets	6,000	
10-380400-433500	Miscellaneous		3,000
10-301450-400000	2000 Ad Valorem Taxes	395	
10-301450-400001	2001 Ad Valorem Taxes	300	
10-301450-400002	2002 Ad Valorem Taxes	100	
10-301450-400003	2003 Ad Valorem Taxes		100
10-301450-400004	2004 Ad Valorem Taxes	1,000	
10-301450-400005	2005 Ad Valorem Taxes		1,500
10-301450-400006	2006 Ad Valorem Taxes		3,000
10-301450-400007	2007 Ad Valorem Taxes	17,000	
10-301450-400095	1995 Ad Valorem Taxes	150	
10-301450-400096	1996 Ad Valorem Taxes	200	

10-301450-400097	1997 Ad Valorem Taxes	200	
10-301450-400098	1998 Ad Valorem Taxes	305	
10-301450-400099	1999 Ad Valorem Taxes		200
10-301450-410000	2000 Vehicle Taxes		550
10-301450-410001	2001 Vehicle Taxes		1,000
10-301450-410002	2002 Vehicle Taxes		300
10-301450-410003	2003 Vehicle Taxes		600
10-301450-410004	2004 Vehicle Taxes		500
10-301450-410005	2005 Vehicle Taxes		600
10-301450-410006	2006 Vehicle Taxes		8,000
10-301450-410007	2007 Vehicle Taxes		7,000
10-301450-410008	2008 Vehicle Taxes		30,000
10-301450-410098	1998 Vehicle Taxes		385
10-301450-410099	1999 Vehicle Taxes		385
10-320480-435601	Marriage License Fees		2,000
10-320480-435603	Conveyance Tax(Stamps)		12,000
10-340480-435604	Reg/Deeds Miscellaneous		1,000
10-340490-434910	Planning maps and copies	500	
10-340490-435400	Land Use Fees		45,000
10-340493-435500	Building Permits		65,000
10-380510-434817	ABC Tax Distributions		800
10-385510-434844	Sheriff Fund Raisers	500	
10-385510-434865	Sheriff Children Xmas Fund		4,900
10-385510-451800	Drug Investigation Fund		10,000
Revenue	Totals	\$136,130	\$368,320

Expenditures:

10-4100-557000	Governing Body Miscellaneous		\$5,000
10-4200-514000	Administration Travel		5,000
10-4200-566000	“ Capital Outlay Inventory		2,000
10-4200-574000	“ “ “		2,500
10-4300-521000	Elections Rental of Buildings		600
10-4300-526000	“ Advertising		2,050
10-4300-545210	“ Contract for Technician		2,500
10-4400-502000	Finance Salaries		13,194
10-4400-505000	“ FICA		1,000
10-4400-506000	“ Health Insurance		3,000
10-4400-507000	“ Retirement		656
10-4400-507100	“ 401K		600
10-4400-566000	“ Capital Outlay Inventory		1,350
10-4410-566000	Personnel Capital Outlay Inventory		100
10-4500-511000	Tax Telephone and postage		2,000
10-4500-514000	“ Travel		1,000
10-4500-532000	“ Office supplies		1,000
10-4500-554310	Tax Refund Expense	5,000	
10-4700-504100	Legals- Attorney Fees		25,736
10-4800-502000	Register of Deeds Salaries		7,794
10-4800-506000	Register of Deeds FICA		596
10-4800-507000	“ “ “ Retirement		387
10-4800-507200	“ “ “ Supplemental Retirement		1,000
10-4800-532000	“ “ “ Office Supplies		2,000
10-4800-566000	“ “ “ Capital Outlay Inventory		2,000
10-4900-504100	Planning Attorney Fees		6,000
10-4900-511000	“ Telephone and Postage		2,000
10-4900-566000	“ Capital Outlay Inventory		2,000
10-4900-574000	“ Capital Outlay		4,000
10-4930-514000	Inspections Travel		1,000
10-4930-531000	“ Gas and Oil		3,000
10-4930-566000	Inspections Capital Outlay Inventory		1,500
10-5000-566000	Buildings & Grounds Capital Outlay Inventory		2,400
10-5000-574301	“ & “ Paving, Grading		2,600
10-5100-549000	Sheriff Drug Investigation Fund		10,000
10-5100-551300	“ Chaplain Expenses		2,000
10-5100-566000	“ Capital Outlay Inventory		1,400
10-5100-574103	“ Capital Outlay Vehicle		28,017
10-5100-574600	“ Capital Outlay Radios		1,800
10-5110-514000	SRO – Travel		1,000
10-5150-511000	Court Facilities Telephone		5,000
10-5450-574000	Public Works Capital Outlay		2,500
10-5500-533000	Traffic Supplies		1,500
10-5800-516000	Solid Waste Maint. on Equipment		2,000
10-5800-533000	“ “ Supplies		5,000
10-58009545014	“ “ State Tipping Fees		10,000
10-5800-574302	“ “ Solid Waste Site Development		18,800

10-5910-510000	Employee Health and Safety Training	100
10-5910-514000	“ “ “ Travel	100
10-5910-533000	“ “ “ Supplies	300
10-5910-545000	“ “ “ Contracted Services	300
10-5910-546010	“ “ “ Medical Supplies	200
10-5910-546100	“ “ “ Employee Hepatitis Shots	200
10-6050-521000	Extension Rental of Building	2,900
10-6050-566000	“ Capital Outlay Inventory	1,675
10-6210-516000	Senior Center Maintenance Equipment	1,175
10-6210-574000	Senior Center Capital Outlay	160
10-6600-537000	Non-Departmental NC Sales Tax	5,000
10-6600-566000	“ “ Capital Outlay Inventory	5,000
10-6600-574000	“ “ “ “	6,500
10-6600-574201	“ “ Radios	2,000
10-6600-581500	“ “ Leased Property Expense	15,000
Expenditures Total		\$5,000 \$237,190

This Budget Amendment is made to reduce Revenues and Expenditures due the economic downturn using actual figures for the first six months of the budget year and adjusting estimates for the last six months. We will make another revision after the end of the next quarter if needed.

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$2,725.00

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 2nd day of February, 2009.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

Board of Education – Budget Amendment

Commissioner Michael McLain made a motion to approve to the budget amendment as submitted by the Board of Education. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Agreement for Engineering Services for Expansion of Waste Water Treatment Plant – McGill Associates

Commissioner Michael McLain made a motion that McGill and Associates draft and send a letter of intent to apply for the economic recovery stimulus funds for the County, at no charge and the board will hold a vote if the letter of intent is accepted and then the Board will proceed at that moment. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

SOUTH CAMDEN WATER & SEWER DISTRICT BOARD OF DIRECTORS

The Chairman recessed the regular Board of Commissioners meeting and called the South Camden Water and Sewer District Board of Directors meeting to order

Member Sandy Duckwall made a motion to adjourn the meeting. The motion passed with Members Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Member voting no; no Member absent; and no Member not voting.

Commissioner’s Report

Chairman Philip Faison stated that he served as delegate for Camden County two weeks ago in Raleigh in the Legislative Goals meeting. Chairman Philip Faison stated that the revenue options and protection goal was selected as the priority goal for the NCACC which Camden County has supported.

Commissioner Michael McLain reported on attending the Library Board meeting.

County Manager's Report

County Manager Randell Woodruff reported on the following:

- Retreat scheduled for Friday, March 27, 2009 at Dismal Swamp Facility
- AEDC Meeting on March 25 at 8:00 a.m. monthly meeting at Dismal Swamp State Park
- March 16 at 6 p.m. Mediacom will make a presentation before regular Board meeting
- Reviewed insurance increase
- Chamber of Commerce banquet on February 6 at 6 p.m.
- Navy interview with Daily Advance

Closed Session

Commissioner Michael McLain made a motion to go into closed session pursuant to G.S. 143-318.11(a)(3) for the purpose of Consultation with Attorney, pursuant to G.S. 143-318.11(a)(4) for the purpose of discussing Industrial Recruitment, and pursuant to G.S. 143-318.11(a)(6) for the purpose of discussing Personnel. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

The Commissioners entered closed session at 11:13 a.m.

Commissioner Michael McLain made a motion to come out of closed session and back into regular session. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

The Commissioners re-entered regular session at 12:18 p.m.

Adjournment

Commissioner Michael McLain made a motion to adjourn the meeting. The motion passed with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

The meeting adjourned at 12:19 p.m.

Philip S. Faison, Chairman
Camden County Board of Commissioners

ATTEST:

Ava J. Gurganus
Clerk to the Board