

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 9th day of November 2004, at the Cumberland Courthouse:

Present: W.F. Osl, Jr., Chairman, District 1
Clifton C. White, District 2
Van Petty, District 3
Elbert Womack, District 4
Jeremiah Heaton, District 5
Darvin E. Satterwhite, County Attorney
Judy O. Hollifield, County Administrator
Sherry Swinson, Assistant County Administrator
Sandy K. Sullivan, Deputy Clerk

The Chairman called the meeting to order. The Deputy Clerk called the roll. Pastor Al Davis, Antioch Centenary and Payne United Methodist Churches, gave the invocation and Mr. Osl led in the pledge of allegiance.

1. Approval of Agenda

On a motion by Mr. Petty and carried, the agenda was amended as noted.

- 1) Add under Department and Agencies
 - b) Sarah Turner, Electoral Board

Vote: Mr. Osl - aye Mr. White - aye
 Mr. Petty - aye Mr. Womack - aye
 Mr. Heaton - aye

2. VDOT - Alan Leatherwood

Set public Hearing on 6-year plan for December Meeting

Alan Leatherwood, VDOT was present and asked that the Board schedule a public hearing on the 6-year plan for the December meeting.

It was the consensus of the Board that a public hearing be scheduled for December 14, 2004 on the 6-year plan.

3. Public Hearing - Vehicle Decal Ordinance

The County Attorney explained the proposed amendments to the current vehicle decal ordinance.

The Chairman opened the public hearing, and there was one speaker who recommended approval.

The Chairman closed the public hearing.

On the motion of Mr. Womack, the following action was taken:

AN ORDINANCE AMENDING SEC. 62-31, SEC. 62-32, AND SEC. 62-35 OF ARTICLE II, CHAPTER 62 OF THE CUMBERLAND COUNTY CODE TO REMOVE TRAILERS FROM THE REQUIREMENT OF PAYING THE COUNTY VEHICLE LICENSE TAX OR FROM OBTAINING A COUNTY DECAL.

WHEREAS, upon the recommendation of the County Treasurer, the Board of Supervisors finds that the following ordinance amendment is in the best interest of the County.

NOW THEREFORE, BE IT ORDAINED, Sec. 62-31, Sec. 62-32, and Sec. 62-35 of Article II, Chapter 62 of the Cumberland County Code are hereby amended to delete any reference to “trailer” or “trailers” in order that the owners or lessees of any “trailer” or “trailers” shall not be required to pay the County vehicle license tax nor to obtain a County decal.

Effective date: January 1, 2005

AN ORDINANCE AMENDING SEC. 62-31 OF ARTICLE II, CHAPTER 62 OF THE CUMBERLAND COUNTY CODE TO REMOVE ANTIQUE VEHICLES FROM THE REQUIREMENT OF PAYING THE COUNTY VEHICLE LICENSE TAX OR FROM OBTAINING A COUNTY DECAL.

WHEREAS, upon the recommendation of the County Treasurer, the Board of Supervisors finds that the following ordinance amendment is in the best interest of the County.

NOW THEREFORE, BE IT ORDAINED, Sec. 62-31 of Article II, Chapter 62 of the Cumberland County Code is hereby amended to add the following at the end of the said Section:

The vehicle license tax imposed by this section and the requirement to obtain a county decal in Sec. 62-32 shall not apply to any antique vehicle having a permanent State registration. For the purposes of this Article II, “antique vehicle” shall mean every motor vehicle which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

Effective date: January 1, 2005

AN ORDINANCE AMENDING SEC. 62-32 OF ARTICLE II, CHAPTER 62 OF THE CUMBERLAND COUNTY CODE TO PROVIDE A 30 DAY GRACE PERIOD TO PURCHASE A COUNTY DECAL FOR NEWLY PURCHASED OR ACQUIRED VEHICLES.

WHEREAS, upon the recommendation of the County Treasurer, the Board of Supervisors finds that the following ordinance amendment is in the best interest of the County.

NOW THEREFORE, BE IT ORDAINED, Sec. 62-32 of Article II, Chapter 62 of the Cumberland County Code is hereby amended to add the following at the end of the said Section:

Owners of newly purchased or acquired motor vehicles shall have a thirty day grace period to purchase a County decal for any such newly purchased or acquired vehicle.

Effective date: January 1, 2005

Vote:	Mr. Osl - aye	Mr. White - aye
	Mr. Petty - aye	Mr. Womack - aye
	Mr. Heaton - aye	

4. Department/Agencies

- a) Mr. Daniels and Mr. Williams re: Water Reservoir Project

Mr. Daniels, Troutman and Mr. Williams, Malcolm Pirnie, gave an update on the water reservoir project and stated that several sites had been reviewed and that, in their opinion, the Cobbs Creek site could be permitted and would provide adequate water for the County and its partners.

Mr. Williams explained that phase 3 of the Water Reservoir Project has been drafted.

- b) Chuck Ironmonger & Nancy Faxon-
Sons of Confederate Veterans re: placement of war memorial plaques

Mr. Ironmonger was not present.

Mrs. Faxon, Daughters of Confederate Veterans stated that her organization felt the plaques are historic, benevolent, educational and patriotic.

A motion was made by Mr. Heaton and defeated to refer the decision on where to place the plaques to the Circuit Court Judge.

Vote: Mr. Osl - nay	Mr. White - nay
Mr. Petty - nay	Mr. Womack - nay
Mr. Heaton - aye	

On a motion by Mr. Womack and carried, the Board agreed to place the plaques in the lobby of the Courthouse.

Vote: Mr. Osl - aye	Mr. White -aye
Mr. Petty - aye	Mr. Womack - aye
Mr. Heaton - nay	

- c) Bill Bailey, Southern Cumberland Emergency Services Committee - Report on Use of Facility

Mr. Bailey gave an overview and status of the use of the Randolph Fire Department building.

Mr. Osl requested that an update be given at the December 14, 2004 meeting in regards to the Fire Department responding to calls.

- d) Sarah Turner - Electoral Board

Sarah Turner thanked the Board of Supervisors for purchasing the new voting machines and stated that the County had a 68 percent turnout for the recent election. Mrs. Turner requested that three back up voting machines be purchased. She stated that the County had made improvements to the polling places to address handicap accessibility, however, some work still needs to be done at District 2 and District 3.

5. County Administrator's Report

- a) Consent Agenda

The County Administrator explained each item in the consent agenda and the following actions were taken:

On a motion by Mr. White and carried, the Board approved the following consent agenda items:

1. Approved the minutes for October 2004.

2. The Bills list was not available, and will be provided for ratification at the December meeting.
3. Appropriated \$5,352.48 to the School in federal funds for Calculator Grant.
4. Supported Anti-Terrorism Grant Application submitted by Old Dominion Emergency Medical Services Alliance on behalf of Planning Districts 13 and 14. Grant will provide each EMS vehicle with a Mark I Auto injector nerve agent antidote kit. Cumberland County will provide matching funds.
5. Adopted the following resolution authorizing the County Christmas Parade:

WHEREAS, the Cumberland County Christmas Parade Committee has organized a Christmas Parade for the benefit of the County in the past; and

WHEREAS, the parade is an event providing enjoyment, recreation, fellowship, and recognition of County civic organizations; and

WHEREAS, the parade is sponsored on a volunteer contribution basis by the community;

NOW, THEREFORE, does the Board of Supervisors authorize the Cumberland County Christmas Parade Committee to organize, administer, and produce a parade on behalf of County residents to celebrate the joys of the winter season.

ADOPTED the 9th day of November 2004 by the Cumberland County Board of Supervisors.

Vote: Mr. Osl - aye	Mr. White - aye
Mr. Petty - aye	Mr. Womack - aye
Mr. Heaton - aye	

b) Appointments

- 1) Planning Commission (District 1)

It was the consensus of the Board of Supervisors to review this appointment at the next regular Board meeting scheduled for December 14, 2004.

- 2) Workforce Investment Board

There was no action taken by the Board of Supervisors.

- c) Proposed by-laws for Cumberland County Water & Sewer Advisory Committee

On a motion by Mr. Petty and carried, the Board adopted the by-laws for Cumberland County Water & Sewer Advisory Committee with the noted amendments. (Copy in Official Board File)

Vote:	Mr. Osl - aye	Mr. White - aye
	Mr. Petty - aye	Mr. Womack - aye
	Mr. Heaton - aye	

- d) Further discussion on tax relief for EMS Volunteers

Mr. White stated that he spoke with EMS volunteers who support revenue recovery. Additional research on this is needed.

- e) Discuss recent special grand jury recommendations regarding investigation of procurement practices in construction of the Southern Cumberland Community Center (Randolph Fire Dept.) (copy of Special Grand Jury's report filed with official Board file for November 9, 2004.)

The County Administrator read the recommendations from the Grand Jury's report and reported on action being taken to address the recommendations.

Among the recommendations was the suggestion of staggered terms for Board members. The County Attorney has given the Board information to consider regarding the process for initiating staggered terms.

The Jury recommended establishment of clearly written procedures regarding public procurement and conflict of interest laws; training for elected or appointed officials regarding these laws and procedures. The County Administrator reported that procurement procedures as stated in the VA State Code will be followed for construction projects; for small purchases, the current Board of Supervisors adopted a policy effective July 13, 2004, that clearly defines the procedure for small purchases (not construction projects); and that elected and appointed officials who are required to file a conflict of interest form, are provided with a copy of the laws and procedures (this is included with the form they must file). The Board could consider providing additional training annually for Board members, Planning Commission, Board of Zoning Appeals, IDA, and any other persons required to file.

Also, the Jury recommended consultation with the County Attorney when undertaking construction projects. The County Attorney will be directed to review all major aspects of construction projects to assure compliance with any laws and regulations that might affect the project.

Finally, delineation of duties and authority of the County Administrator relative to day-to-day administration of the County was a recommendation of the Jury. The County Administrator reported that the current Board of Supervisors has made it clear from the beginning of its term that the Board would establish policy and the County Administrator would manage day-to-day operations of the County based on County policy. This direction has been followed. The current roles of the Board of Supervisors and the County Administrator are exactly as that envisioned and recommended by the Special Grand Jury.

The Grand Jury also stated that they "found no evidence of bad intent on the part of any of the individuals concerned." The

report stated that it was clear that all of those involved in the project had only the best interests of the community at heart.

6. Assistant County Administrator's Report

a) Project Updates

- 1) The Museum Board meeting will be held on November 29, 2004.
- 2) Upcoming Needs Assessment

Ms. Swinson announced an upcoming County needs assessment that will be conducted with the assistance of the Longwood University Small Business Development Center and the Farmville Chamber of Commerce. The assessment will be free to the County and will begin early next year. Both citizens and businesses will be polled. Citizens will be polled for their input on the types of businesses they would like to see in the County and businesses will be polled as to their employment needs.

b) Memorandum of Agreement between VA Department of Conservation and Recreation and Cumberland County Regarding Bear Creek Lake and State Park and Utility Services

On a motion by Mr. Petty and carried, the Board accepted the following memorandum between the Virginia Department of Conservation and Recreation and Cumberland County Regarding Bear Creek Lake State Park and Utility Services.

WHEREAS, the Virginia Department of Conservation and Recreation (DCR) owns and operates Bear Creek Lake State Park, which is bounded by and contained within Cumberland State Forest, owned by the Virginia Department of Forestry (DOF), which is bounded by and contained within the County of Cumberland, Virginia; and

WHEREAS, the County of Cumberland has the responsibility of providing water and sewer utility services per the Virginia Department of Health's regulations to its residents, businesses, and visitors of Bear Creek Lake State Park; and

WHEREAS, the DCR and County of Cumberland desire to undertake certain activities that may affect both DCR and the county, the lands of Cumberland State Forest and Bear Creek Lake State Park; and

WHEREAS, DCR has an approved master plan that contains provisions for planned future developments within Bear Creek Lake State Park that will take place on the west side of Bear Creek Lake; and

WHEREAS, the most practical and least expensive method of providing utility services to those facilities would be via Bear Creek Road and via a new access that would cross the private property adjacent to part of Cumberland State Forest; and

WHEREAS, the county and DCR wish to work together and support other to enhance the visitor's experience at Bear Creek Lake State Park.

NOW, THEREFORE, the parties agree as follows:

The Department of Conservation and Recreation and Cumberland County will work to support recreational opportunities in Bear Creek Lake State Park.

In addition, the County of Cumberland will:

1. Provide necessary easements extending from the southern most gated entrance of Bear Creek Road, across private property, to a point convenient to the connections of both water and sewer utilities at the end of, or near Foster Road, or another mutually agreed upon point, to accomplish the improvements described in the Bear Creek Lake State Park Mater Plan and the related development plans.
2. Assume ownership of all water and sewer utility services, and the operation thereof, in an out of Bear Creek Lake State Park once construction has been completed. This is to include any future maintenance of said utilities, their appurtenances, and their easements.
3. Provide water service capable of delivering a peak water usage of 61 gallons a minute or a peak daily flow at full usage of 22, 000 gallons per day, with a minimum of 20 psi, and meeting all current VDH regulations. Water service shall not be contingent on any future county water system improvement projects.
4. Provide sewer service capable of handling the peak daily flow at full usage of 22, 000 gallons from Bear Creek Lake State Park.
5. Agree to a no-charge rate schedule for five years after construction, when at that time, an agreed upon, reduced rate will be applied for both water and sewer.

In addition, the DCR will:

1. Pay costs associated with the actual construction of the water and sewer services up to a point of the connection pump station at the end of Foster Road, or another mutually agreed upon point, to accomplish the improvements described in the Bear Creek Lake State Park Master Plan and the related development plans.

This memorandum sets out the intent of the signatories to cooperate in the manner prescribed in order to improve the effectiveness of their activities. Nonetheless, this memorandum is not a regulation; further, it is not a contract and the agencies do not intend hereby to create any third party beneficiaries.

This memorandum of agreement is executed this 9th day of November, 2004 by and between:

Joseph H. Maroon, Director, Department of Conservations and Recreation and William F. Osl, Jr., Chairman, Board of Supervisors.

7. County Attorney's Report

- a) Comments on Proposed Model ordinances re: hunting laws.

The County Attorney explained the current county ordinance and the proposed changes suggested by the Virginia Department of Game and Inland Fisheries.

There was no action taken by the Board of Supervisors. The Board stated that they preferred that localities retain the power to set their own hunting ordinances.

- b) Consider animal warden's request to adopt State Code requiring burial of dead animals and fowl

The County Attorney gave an overview of the Animal Warden's request to adopt State Code requiring burial of dead animals and fowl.

The Board of Supervisors felt that the code was not specific on the type of animals it addressed and tabled action to set a public hearing until further clarification could be provided.

- c) Courthouse Water System

The County Attorney explained the proposed deed from the School Board to the County on which the water tank will be located.

On a motion by Mr. Womack and carried, the Board adopted the following resolution:

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
CUMBERLAND COUNTY, VIRGINIA**

WHEREAS, the County of Cumberland is in the process of having improvements made to the County's public water system in the Cumberland Courthouse area;

WHEREAS, as part of the construction of a public water system in the Cumberland Courthouse area, a water storage tank will be constructed on property presently owned by the Cumberland County School Board;

WHEREAS, the Cumberland County School Board is willing to declare a 90' x 90' area on the School Board's property located on Tax Map Parcel 57A1- A - 30, along with appurtenant easements to service the said area, as surplus property and to convey the same to the Board of Supervisors of Cumberland County to facilitate the construction of the improvements to the public water system.

WHEREAS, the Board of Supervisors wishes to acknowledge its obligation to operate and maintain the Courthouse public water system and to relieve the School Board and any responsibility with respect to such operational and maintenance matters.

NOW THEREFORE, BE IT RESOLVED, in compliance with the provisions of §§15.2-1800 & 15.2-1803 of the Code of Virginia, 1950, as amended, the County Attorney is hereby authorized to prepare an appropriate deed for execution by the

Cumberland County School Board, to accept delivery of the same on behalf of the County of Cumberland, Virginia, and to evidence his approval and acceptance of the deed by joining in its execution and by putting it to record in the Clerk's Office of the Circuit Court of the County of Cumberland, Virginia.

AND, BE IT FURTHER RESOLVED, the Board of Supervisors hereby acknowledges its obligation to operate and maintain the Courthouse public water system and agrees to relieve the School Board of any responsibility with respect to such operational and maintenance matters, except as otherwise required of any user of the public system; and, to the extent permitted by law, the County of Cumberland hereby agrees to indemnify and hold the School Board harmless with respect to any claims or liabilities arising in connection with the operation and maintenance of the said public water system.

Vote:	Mr. Osl - aye	Mr. White - aye
	Mr. Petty - aye	Mr. Womack - aye
	Mr. Heaton - aye	

8. Board Members

Mr. Osl - District 1 - report on Emergency Services Communications Committee Meeting

Mr. Osl stated that the Emergency Services Communications Committee Meeting was very productive. Problems with communications were defined. Mr. Osl stated that he attended the High Bridge Tour and attended the VACO Conference.

Mr. White

Mr. White stated that he attended the Heartland Flag Raising. Mr. White suggested staggered times for the public comments section of the Board meetings.

Mr. Petty

Mr. Petty stated that a citizen requested the need for a uniform time for public comments. Mr. Petty stated that Cumberland Housing is in the process of having a review of its bookkeeping and he will keep the Board informed of updates. Cumberland Housing is a great program which was formed in 1999. The program has constructed twenty-four new homes.

Mr. Womack

Mr. Womack stated that he attended the Heartland Flag Raising and attended the VACO Conference and gained a lot of knowledge at the conference. Mr. Womack thanked citizens that sat on the Building Committee for the Randolph Fire Department.

Mr. Heaton

Mr. Heaton stated that there is no economic development in Cumberland County and that the citizens cannot afford higher taxes.

9. Public Comments

One citizen spoke stating that she does not care for staggered terms and that the Board of Supervisors must represent the people of the county. The citizen stated that she was thrilled with the new voting machines.

10. Closed Meeting

The County Attorney explained the item to be discussed in closed session.

On a motion by Mr. Womack and carried, the Board entered into closed meeting under VA Code Section 2.2-3711 A (1) Personnel.

The Board returned to regular session on a motion by Mr. Osl.

A motion was made by Mr. Osl and adopted by the following vote:

Vote:	Mr. Osl - aye	Mr. White - aye
	Mr. Petty - aye	Mr. Womack - aye
	Mr. Heaton - aye	

that the following Certification of a Closed Meeting be adopted in accordance with The Virginia Freedom of Information Act:

WHEREAS, the Board of Supervisors of Cumberland County has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Cumberland County hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of Cumberland County.

No action taken on the item discussed in closed session.

11. Additional Information

N/A

12. Adjourn

The Chairman stated that a public information meeting will be held on Wednesday, December 1, 2004 at 7:00 p.m. on the water reservoir project at the Cartersville Rescue Squad building. The meeting was recessed until December 8, 2004 at 4:00 p.m., in the Old Clerk's Office, for a closed session under VA Code Section 2.2-3711-A5.

Chairman

County Administrator

