

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 1st day of August 2005, 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 Ownby, County Administrator
Sherry Swinson, Assistant County Administrator
Sandy Sullivan, Deputy Clerk

The Chairman called the meeting to order and the Deputy Clerk called the roll.

The invocation was led by Reverend Dargon B. Lucas and the pledge of allegiance was led by the Chairman.

1. Approval of Agenda

On a motion by Mr. Osl and carried, the Board approved an addendum to the agenda as follows:

3. Department/Agencies
 - b) ESC - INFO for agenda item
 - d) Water & Sewer Advisory Committee recommendations regarding new County public water supply system
4. County Administrator's Report
 - j) Appointments to CRC Advisory Committees
 - Committee of Chief Administrative Officers
 - Committee on Civil Rights
 - Committee on Marketing
6. County Attorney's report
 - f) Consider joint public hearing with Planning Commission on September 13th re: Conditional Use permit for Mary and Cynthia Bowman to construct new house at 7 Lake Drive (due to unhealthy levels of mold)

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

2. VDOT - Alan Leatherwood, Resident Engineer

Alan Leatherwood, Resident Engineer, was present to hear concerns from the Board of Supervisors and to set a joint work session with the Board of Supervisors and the Planning Commission. The joint meeting will be held on August 18, 2005 at 4:00 p.m. in the Circuit Courtroom of the Courthouse. A public hearing on the six-year-plan will be scheduled for August 29, 2005 at 7:00 p.m. in the Circuit Courtroom, of the Courthouse.

Supervisors stated that repairs are needed on Sports Lake Road and repairs are needed on the roads leading into the transfer stations.

3. Departments/Agencies

a) Department of Forestry - Gary Heiser

Mr. Heiser was unable to attend. Ms. Swinson, Assistant County Administrator, stated that the County will be receiving a check from the Department of Forestry in the amount of \$71,154.00. The funds are from the twenty percent share of timber profits from harvesting at the Cumberland State Forest.

b) Emergency Services Committee Report

Aaron Hickman, IT Manager, gave the monthly committee report. Mr. Hickman stated that the committee is recommending the purchase of new base stations for the Blue Ridge Communications tower that is located next to the school complex. Most of the County's emergency radio transmission equipment is housed on the tower.

The Committee is recommending the purchase of two new radio consoles for the dispatcher's office, four new handheld radios for the Sheriff's office, antenna modifications for rescue and fire teams, improvements to public works communication systems and fiber installation to the Blue Ridge Tower.

The Committee has been awarded almost \$290,000.00 in grant funding from the Virginia Department of Emergency Management and the Old Dominion EMS Alliance. The Committee has also received a \$154,000.00 grant from the Rescue Squad Assistance Fund. A portion of these funds will be used to purchase communications equipment, specifically for the County's volunteer fire and rescue tower, a base station and a fiber communication line.

On a motion by Mr. White and carried, the Board authorized the County to issue a request for proposals for new EMS and related County-office communications equipment.

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

- c) Treasurer Lee Pfeiffer - Power point presentation re: county decals

Treasurer, Lee Pfeiffer gave a power point presentation regarding County decals.

It was the consensus of the Board to review this information during the budget process.

- d) Water & Sewer Advisory Committee report - recommendations regarding new County public water supply system

Mr. Scott Newton, Water & Sewer Advisory Committee explained the Committee's recommendations regarding the new County public water supply system.

The County attorney stated that an ordinance is in place but not completed at this time.

It was the consensus of the Board to schedule a public hearing for September 13, 2005 if the ordinance has been finalized.

4. County Administrator's Report

a) Consent Agenda

The County Administrator explained each item in the consent agenda and on a motion by Mr. Womack and carried, the Board approved the following items as presented:

1. Approved minutes for August 2005.
2. Approved bills for August 2005 totaling \$87,072.22 and ratified bills for July 2005 of warrants totaling \$277,886.77 with check numbers ranging from 45291 to 45533. Direct Deposit totaling \$91,807.21.

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

3. Consider Anti-Nepotism Policy

On a motion by Mr. Womack and carried, the Board adopted the following Anti-Nepotism Policy:

The Cumberland County Board of Supervisors hereby adopts the following policy on the employment of persons who are relatives of current employees of the County:

Employment of Relatives

Employees of Cumberland County shall not exercise any control over the hiring, employment, retention, discipline, termination, or employment activities, of a member of the employee's immediate family, and shall not be in a position to supervise or influence such activities.

For purposes of this section, a member of the employee's immediate family shall be defined as a parent, parent-in-law, spouse, sibling, sibling-in-law, child, or stepchild, whether living in

the employee's household or not. The terms "child" and "stepchild" include those persons related by blood, marriage or adoption. Also included in the definition of "a member of the employee's immediate family" is any other person residing in the household of the employee, who is (a) a dependent of that employee, or (b) upon whom the employee is dependent.

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

4. Approve amendment to personnel policy re: health insurance

On a motion by Mr. Heaton and carried, the Board approved the following amendment to the personnel policy:

11.2 HEALTH AND DENTAL INSURANCE

Health and dental insurance is provided for full-time permanent employees, the Board of Supervisors, and Constitutional officers. The Employer (County) pays a portion of the cost of the covered individual's premium. A portion of the premium for the family plan is paid by the County and the remainder by the covered individual and will be deducted from the covered individual's gross pay. In addition, the county will continue to pay the County portion of the employee only premium upon retirement from the County, under VRS, with at least 10 full years of service at age 62, until the individual reaches age 65 and is eligible for Medicare. Employees who retire before age 62 with at least 30 years of service with Cumberland County will be allowed to continue their health and dental coverage through Cumberland County with the County contributing \$120.00 per month towards their premiums until they reach the age 62. When such employee reaches the age of 62 the County will begin premium contributions at the same rate as current employees until the individual reaches age 65 and is eligible for Medicare. The

employee must pay any additional premium for spouse or family. The County must receive the premium for the health and dental insurance by the 15th of each month for the following month.

Health and dental insurance is provided for part-time permanent employees with (5) years service who work a minimum of 1041 hours per year (20 hours per week average). The Employer (County) will contribute 2/3 the portion of premium normally contributed for full-time employees. The employee is responsible for the remainder of the insurance premium.

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

5. Consider addition of Section 17.6 to Drug & Alcohol Misuse Policy

On a motion by Mr. Osl and carried, the Board added the following section to the current Drug & alcohol Misuse policy for County employees:

17.6 RANDOM DRUG TESTING

The primary purposes of random testing are to deter prohibited drug use and to ensure a drug free work place. Employees shall be subject to drug testing on an unannounced and random basis. There will be random testing of no less than eight (8) employees per calendar year. Employees will remain in the random selection pool at all times, regardless of whether they have been previously selected for testing during the calendar year. The following principles govern the random testing process:

- (A) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's name or social security number.

(B) The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of the collection. At an appropriate time after each employee selected has reported for duty, the designated employer representative will notify each employee to be tested to report immediately to the collection site for testing.

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

b) Information regarding issuance of RFP for Communication towers in County

The County Administrator stated that she and Aaron Hickman, IT Manager, are currently developing a request for proposals for the siting of a cell/communications tower within the County and are working to compile data to establish a Technology Advisory Committee.

Verizon has looked at placing a tower in the Cartersville area; however, the County is also considering locating another tower in the central portion of the County, as well as the Randolph area of the County.

c) Information concerning establishment of Technology Advisory Committee

The County Administrator stated that she and Aaron Hickman, IT Manager are still compiling information at this time and requested that the Board of Supervisors let her know if they have suggestions of information to be included in the proposal.

d) Board recommendation to Circuit Court Judge for appointment to Equalization Board (Districts 2 and 5)

On a motion by Mr. White and carried, the Board recommended Alan Dacosta to serve on the Equalization Board for District 2.

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

A recommendation for District 5 will be tabled until the next Board meeting.

- e) Appointment to Water & Sewer Advisory Committee -District 5

It was the consensus of the Board to table this item until the next Board of Supervisor's meeting.

- f) Appointments to Planning Commission - Districts 2 and 3

On a motion by Mr. White and carried, the Board appointed Keith Oulie to serve on the Planning Commission representing District 2, which will leave a vacancy in the at-large position on the Planning Commission.

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

On a motion by Mr. Petty and carried, Bill Burger was reappointed to serve in District 3 on the Planning Commission.

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

It was the consensus of the Board to defer the District 4, at-large position until the September Board meeting.

- g) Consider reappointment of Carolyn Helgeson to Piedmont Alcohol Safety Action Program

On a motion by Mr. Womack and carried, the Board reappointed Carolyn Helgeson to serve on the Piedmont Alcohol Safety Action Program for a three year term.

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

- h) Consider resolution in the matter of protecting the private property rights of Cumberland County residents.

On a motion by Mr. Osl and carried, the Board adopted the following resolution as modified:

WHEREAS, the United States Constitution, in Article 5 of the Bill of Rights, and the Virginia Constitution in Article 1, Section 18, expressly provide for the private property rights of its citizens; and

WHEREAS, the power of the eminent domain has been reserved to the local, state and federal governments for the sole purpose of acquiring private property through the use of condemnation proceedings when said privately held properties are needed for public purposes; and

WHEREAS, the United States Supreme Court recently handed down a decision upholding what they maintain is a local government's ability to take private property for a vaguely defined "public good" such as economic development, or increased tax revenues to the local government itself; and

WHEREAS, this Supreme Court decision put at risk the very right of private individuals to be free from government interference in their right to keep and enjoy their private property; and

WHEREAS, this action by the Supreme Court is contrary to and contravenes the aforementioned constitutional protections against such capricious and willful attacks by any governmental body upon the rights of the citizens,

NOW, THEREFORE, we the Cumberland County Board of Supervisors recognize and support the original concept of the framers of the constitution wherein the power of the eminent domain shall be used only as a last resort to acquire private property for a public project, and that any such public project can be demonstrated to be necessary to accomplish the general welfare of the citizens of that jurisdiction.

FURTHER, this Board deems any departure from the original principles of eminent domain to be an assault on our basic foundations of liberty and a threat to the rights of private property ownership; and again strongly urge all municipal jurisdictions with the State of Virginia to encourage the Virginia State Legislature to use all means necessary to strengthen the original purpose of the Rights of Eminent Domain within the State Constitution, by strictly defining "public good".

Adopted this 1st day of August 2005.

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

This resolution will be sent to NACO, VACO and our legislators.

- i) Authorize RFP for general architectural/engineering services

The County Administrator stated that the contracts for general services have expired and we need to go through the procurement process again.

It was the consensus of the Board of Supervisors to publish the RPF for general architectural/engineering services through eVA.

- j) Appointments to CRC Advisory Committees
 - Committee of Chief Administrative Officers
 - Committee on Civil Rights
 - Committee on Marketing

On a motion by Mr. Osl and carried, the Board appointed the County Administrator, Judy Ownby to serve on the Committee of Chief Administrative Officers, Assistant County Administrator, Sherry Swinson and Fred Shumaker of Goochland Glass to serve on the Committee for Marketing.

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

It was the consensus of the Board to defer the appointment to the Committee on Civil Rights until the next Board of Supervisors meeting.

5. Assistant County Administrator's Report

- a) Discuss water connection fees

The Assistant County Administrator stated that she has received the user agreements required by Rural Development.

- b) Project Updates

N/A

6. County Attorney's Report

- a) Information regarding tax exemption ordinance

The County Attorney explained that in the past this type of decision would have been made by the General Assembly however, the General Assembly recently authorized local government to have the ability to offer such exemptions.

In doing so, the Board would have to adopt an ordinance, so that such a decision can be made at the local government level. This would require a public hearing.

It was the consensus of the Board of Supervisors to advertise for a public hearing regarding the tax exempt ordinance.

- b) Consider policy requiring criminal background check on employees and appointees

The County Attorney explained that this procedure can be done voluntarily; however, there is a provision in the code that requires the County to adopt an ordinance if this procedure is made part of the County's Personnel Manual.

It was the consensus of the Board to hold a public hearing at the October Board meeting to consider adopting an ordinance to conduct background checks on potential employees and appointees of the County.

c) Set public hearings for September:

- 1) Amendments to zoning & subdivision Ordinances re: fees and charges for zoning, Subdivision and franchise matters
- 2) Amendment to allow for cash proffers

On a motion by Mr. Osl and carried, the Board scheduled a public hearing to be held on September 13, 2005, for items 1 and 2 listed above.

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

d) Review R2-5 ordinance and refer to Planning Commission

It was the consensus of the Board to refer this item back to the Planning Commission, and allow them to hold a public hearing.

- e) **Consider Joint public hearing with Planning Commission on September 13th re: amendments to subdivision ordinance to meet VDOT requirements**

It was the consensus of the Board to hold a joint work session on August 18, 2005 with the Planning Commission to discuss proposed amendments to the subdivision ordinance.

A joint public hearing will be held on September 13, 2005.

- f) **Consider joint public hearing with Planning Commission on September 13th re: Conditional Use Permit for Mary and Cynthia Bowman to construct new house at 7 Lake Drive (due to unhealthy levels of mold)**

On a motion by Mr. White and carried, the Board scheduled a joint public hearing with the Planning Commission on September 13, 2005 to discuss the request of a conditional use permit for Mary and Cynthia Bowman.

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

7. **Board Members**

Mr. Osl

No comments.

Mr. Womack

No comments.

Mr. Petty

No comments.

Mr. White stated that Powhatan County will be holding a public hearing on August 2, 2005 in reference to rezoning 522 acres of land from Boswell Road to the Cumberland County line on the South side of Route 60. They want to

put 104 houses on this property. This could cause some road paving issues for Cumberland County if this is developed.

Mr. Heaton apologized for being unable to attend the July Board meeting.

8. Public Comments

A citizen stated that the County should give thought to the drug testing policy. Supervisors are trained to recognize drug related problems.

9. Additional Information

N/A

10. Closed Session

On a motion by Mr. Osl and carried, the Board entered into closed meeting under VA Code Section 2.2-3711 A(3) consider purchase of real estate for public purpose.

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 was taken on item discussed.

11. Adjourn

The Chairman ordered the meeting recessed until August 18, 2005 for a joint work session between the Board of Supervisors, Planning Commission and VDOT to be held in the Circuit Courtroom of the Courthouse.

Chairman

County Administrator