

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 17th day of October, 2006, at the Cumberland Elementary School Cafeteria:

Present: W. F. Osl, Jr., Chairman, District 1
Clifton C. White, District 2
Van Petty, District 3
Elbert Womack, District 4
Christine Ross, District 5
Howard Estes, County Attorney
Judy Ownby, County Administrator
Jill Matthews, Assistant County Administrator
Catherine Kahl, Planner

The Chairman called the meeting to order and the County Administrator called the roll.

The invocation was led by Rev. Dargan 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 amended the agenda as follows:

3. *Additional Information re: public hearings on landfill applications*
6. County Administrator's Report
 - a) September 19th minutes
 - d) 2007 Legislative Agenda
(Prince Edward's agenda, and info from VACo)
8. County Attorney's Report
 - a) *Draft ordinance for Tall Grass; and Animals*
11. Additional Information
 - Invitation for Bids on Flippen Building Renovation

Vote: Mr. Osl – aye Mr. White – aye
Mr. Petty – aye Mr. Womack – aye
Mrs. Ross – aye

2. VDoT

The Board set a public hearing on the 6-year plan to be held at the regular board meeting on Tuesday, November 14, 2006 in the Cumberland Courthouse.

3. Public Hearings

- a) Landfill applications

Catherine Kahl gave a brief review of the timeline related to the Landfill application dated August 1, 2006. Ms. Kahl stated that the application was referred to the Planning Commission at the regular August Board of Supervisors meeting. The Planning Commission reviewed the application on August 21, 2006, after which a series of meetings and public hearings were held with representatives from Allied, the Department of Environmental Quality, and County Engineers to review the range of issues related to landfills. The final, official public hearing was held on October 10, 2006, where the Planning Commission recommended the approval of the resolutions that, among other things, related to the rezoning and conditional use permits for the landfill to the Board of Supervisors. Ms. Kahl gave a review of the resolutions and the recommendations from the Planning Commission.

Ted Neura, a representative of Allied, gave a brief presentation on the proposed landfill.

The County Attorney presented and entered into the record the proposed resolutions, with amendments offered by the Board, and the resolutions were formally approved and adopted by the Board.

Mr. White suggested that residents in closest proximity to the proposed landfill site be given additional consideration and relief from financial distress associated with decreased property values. The Board reached a consensus to designate a citizens group to include affected residents, as well as representatives from other districts, Planning Commission, Board of Supervisors, and Allied Waste to develop a property protection plan. The Board instructed the County Attorney to develop by-laws for proposed committee.

The Chairman opened the public hearing.

Twenty-four speakers signed up for public comment, both in support of and against the proposed landfill.

Board members addressed the citizens with comments on the proposed landfill.

- 1) Code Amendments – to amend Section 74-143 of the County Code to add subsection 74-143(18) which would add borrowing, excavating and stockpiling of soil material to those activities permitted in A-2 areas under a CUP.

On a motion by Mr. Osl and carried, the Board of Supervisors adopted and approved the following resolution:

WHEREAS, the Planning Commission of Cumberland County initiated a review and revision of its Zoning Ordinance with regard to borrowing, extracting, excavating, surplus or stockpiling of soil, gravel, sand, cover and other similar material; and

WHEREAS, the Planning Commission directed staff to prepare a draft of a new provision regarding same and made such text available for public review; and

WHEREAS, the Planning Commission duly provided notice of its respective public hearing and duly received comment on the proposed Zoning Ordinance amendment on October 10, 2006; and

WHEREAS, after discussion, preparation, staff presentation and due deliberation, including public hearings and public input and final presentation at its October 10, 2006, meeting the Planning Commission recommended amending the Zoning Ordinance with regard to borrowing, extraction and stockpiling of soil materials; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on October 17, 2006; and

WHEREAS, the Board of Supervisors carefully considered the Planning Commission's recommendation and the testimony and evidence presented at the public hearing on October 17, 2006; and

WHEREAS, the Board of Supervisors desires to finalize and affirm its findings and to take action on the proposed amendment to Section 74-143, adding a subsection 74-143(18), and adding a new Section 74-150 regarding borrowing and stockpiling of soil and other similar materials;

BE IT RESOLVED by the Board of Supervisors, as follows:

- a. The Board of Supervisors, after due consideration of public comment received, determines that the amendment is consistent with, and substantially in accord with, the County's Comprehensive Plan.
- b. The Board of Supervisors amends the Zoning Ordinance and determines that the amendment is in substantial accordance with the general purpose and objectives of the Zoning Ordinance and is consistent with, and required by, consideration of the public necessity, convenience, general welfare and good zoning practice.
- c. Upon consideration of the proposed text, testimony, staff remarks, and public comment, and after consideration of the current conditions and standards set forth in the Zoning Ordinance, the Board of Supervisors amends the Zoning Ordinance as follows:
 1. Add a new subsection 74-143 (18) to read as follows:
“(18) Borrow, extraction, excavation and stockpiling of soil, gravel, or sand, consistent with the provisions of Section 74-150.”

2. Add a new Section 74-150 to read as follows:
“Borrowing, extracting, excavating, surplus or stockpiling of soil, gravel, sand, cover and other similar material shall be consistent with the provisions of Chapter 34, Article 2 of the County Code (Section 34-31 et seq.) and shall be conducted in a safe manner and in accordance with best management practices and applicable Federal and State regulations. Drainage around any surplus, stockpiles, or cover material will be consistent with best management practices to avoid erosion, leaching of materials and sediment run-off. Salt and sand piles over 20 cubic feet will be covered when not accessed. Any equipment, vehicles, or supplies necessary to borrow, extract, excavate, stockpile, move material and similar such activities and on-site for longer than a consecutive two-month period shall be screened by architectural or landscape architectural screening to be visually unobtrusive from any public road or from any adjacent property. Architectural or landscape architectural screening of borrow, extraction or excavation areas, surplus or stockpiles shall be provided if visible from a public road or from adjacent property. No surplus or stockpile shall exceed a 35-foot maximum vertical height and no slope for surplus or stockpile shall exceed 4:1 unless appropriate best management practices, as set forth by the Peter Francisco Soil and Water Conservation District, are utilized to prevent erosion, leaching of materials and sediment run-off. Re-grading of borrow, extraction, and excavation areas shall occur after the sooner of six months of inactivity or following termination of such activities and shall be consistent with pre-existing grade or at a grade not greater than 5:1.”

BE IT FURTHER RESOLVED by the Board of Supervisors that the amendment to the Zoning Ordinance as reflected above is hereby effective immediately.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

2. Cumberland County Development Co., LLC – request to rezone approximately 557 acres from A-2 to M-2 and CUP to operate solid waste landfill.

PART ONE – APPROVING REZONING FROM A-2 TO M-2:

On a motion by Van Petty and carried, the Board of Supervisors adopted and approved the following resolution:

RECITALS AND RESOLUTIONS – PART ONE

RECITALS:

WHEREAS, Cumberland County Development Company, LLC (the “Permittee”) filed a Rezoning and Conditional Use Permit Application Package containing a rezoning application and supporting materials (the “Rezoning Application”) and conditional use permit application and supporting materials (the “CUP Application”) seeking to rezone the property described below from A-2 to M-2 and obtain a conditional use permit in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); specifically, the Permittee has requested the issuance of a conditional use permit under Section 74-583(3) of the Zoning Ordinance to operate a solid waste landfill (the “Facility”) to be regulated by the state; and

WHEREAS, the subject property is all or a portion of Parcels 51-A-14, 59-A-3, 59-A-4, 60-1-6, 60-1-7 and 60-1-8, containing in the aggregate approximately 556.92 acres, more or less, as shown in Figure 2 of the Application Package and more particularly described on Exhibit A attached hereto entitled “Legal Description” (hereinafter referred to as the “Facility Property”); and

WHEREAS, the Board of Supervisors duly referred the Rezoning Application and CUP Application to the County Planning Commission for its recommendation on August 12, 2006; and

WHEREAS, the Planning Commission directed staff to make the Rezoning Application and CUP Application available for public review; and

WHEREAS, the Planning Commission duly advertised and held public workshops and hearings on September 6, September 11, September 18 and October 10; and

WHEREAS, after the Planning Commission duly considered the testimony and evidence presented at the public hearings and workshops in support or opposition to the proposed Rezoning Application and CUP Application and gave reasonable consideration to numerous factors, including but not limited to the County’s Comprehensive Plan and the suitability of the Facility Property for various uses, the Planning Commission adopted a resolution on October 10, 2006, recommending the granting of the rezoning request and approving the conditional use permit; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on October 17, 2006; and

WHEREAS, the Board of Supervisors carefully considered the Planning Commission’s recommendation and the testimony and evidence presented at a public hearing on October 17, 2006, in support or opposition to the proposed Rezoning Application and CUP Application, including among other things documentation, information and data related to environmental monitoring and

protection, traffic, noise, odor, lighting, property valuations and other pertinent and relevant issues, the input of the applicant, and its engineers and traffic consultants, input from the general public, and the County's engineers; and

WHEREAS, in its review of the Rezoning Application and CUP Application, the Board of Supervisors gave reasonable consideration to numerous factors, including but not limited to the following: the existing use and character of the Facility Property, the County's Comprehensive Plan, the suitability of the Facility Property for various uses, the trends of growth or change, and the current and future requirements of the County as to land for various purposes as determined by population and economic studies; and

WHEREAS, after discussion, staff presentation and due deliberation with respect to such documentation, information and data, including information and materials presented at this public hearing, the Board of Supervisors desires to affirm its findings and take action with respect to the Rezoning Application and CUP Application;

RESOLUTIONS:

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, as follows:

- d. The foregoing recitals are hereby incorporated by this reference.
- e. Upon consideration of the foregoing and the conditions and standards set forth in the Zoning Ordinance, the Board of Supervisors rezones the Facility Property in accordance with the Rezoning Application.
- f. The Board of Supervisors further finds that the request made in the Rezoning Application and the location of the proposed solid waste landfill on the Facility Property are in substantial accordance with the County's Comprehensive Plan.
- g. The Board of Supervisors has also determined that the request made in the Rezoning Application furthers the general purpose and objectives of the Zoning Ordinance and would be beneficial and appropriate taking into consideration public necessity, convenience, general welfare and good zoning practice;
- h. Upon consideration of the foregoing, the Board of Supervisors hereby grants the request in Rezoning Application #06-08-01 and rezones the Facility Property from A-2 to M-2.

[END OF RESOLUTIONS – PART ONE]

Vote: Mr. Osl – aye Mr. White – aye

Mr. Petty – aye Mr. Womack – aye
Mrs. Ross – aye

PART TWO– GRANTING OF CONDITIONAL USE PERMIT:

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

RECITALS AND RESOLUTIONS – PART TWO

RECITALS:

WHEREAS, the Board of Supervisors of Cumberland County granted, in accordance with the “Recitals and Resolutions – Part One”, the request to rezone from A-2 to M-2 the property described as the “Facility Property” in such Recitals and Resolutions; and

WHEREAS, the Recitals in “Recitals and Resolutions – Part One” are incorporated by this reference;

RESOLUTIONS:

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, as follows:

- a. The foregoing recitals are hereby incorporated by this reference.
- b. Upon consideration of the foregoing and the conditions and standards set forth in the Zoning Ordinance, including Sections 74-583 and 74-702, the Board of Supervisors grants the conditional use permit as requested by the Permittee in the CUP Application, subject to the CUP Conditions as defined below.
- c. The Board of Supervisors has also determined that the request made in the CUP Application furthers the general purpose and objectives of the Zoning Ordinance and would be beneficial and appropriate taking into consideration public necessity, convenience, general welfare and good zoning practice;
- d. Upon consideration of the foregoing, and in accordance with Section 74-702(a)(14) of the Zoning Ordinance, for the CUP Application the Board of Supervisors hereby modifies the standards established in Section 74-588 of the Zoning Ordinance as set forth in the CUP Conditions as defined below.
- e. Upon consideration of the foregoing, the Board of Supervisors grants the request in Conditional Use Permit Application #06-08-01 for Permittee to operate

a solid waste landfill on the Facility Property in accordance with the Zoning Ordinance and applicable state law and regulations, subject to the Permittee's compliance with the following conditions (collectively, the "CUP Conditions"):

1. The Facility shall be in compliance with applicable state and federal laws and regulations and Permittee will not commence operation until all applicable state and federal permits are obtained.
2. Permittee shall locate, permit, construct and operate the Facility in compliance with all applicable federal, state and local statutes and regulations, and the terms and conditions of all permits issued for the Facility.
3. The Facility shall not accept Medical Waste, Hazardous Waste or Toxic Waste as these terms are defined by the applicable state regulations. The Facility shall accept municipal sewage sludge or commercial animal waste only with the consent of the County, at the County's sole discretion. Furthermore, the Facility shall not accept or utilize "processing fines" resulting from the recycling of construction and demolition debris as alternate daily cover.
4. Copies of all applications for state and federal permits, along with information submitted in any permit application process, shall be provided to the County Administrator, or designee, upon request.
5. Ingress and egress to and from the Facility will be by way of an access road connecting the Facility with State Route 60. The Permittee will operate the Facility in such a manner as to avoid unreasonable traffic congestion involving company-controlled waste stream providers on County roads. Permittee shall conduct, at its own expense, a traffic signal warrant study every two years as recommended by the Virginia Department of Transportation ("VDOT") and according to VDOT standards. If such study or by VDOT determination a signal or other road improvements at the new intersection are deemed necessary, such upgrades shall be provided at Permittee's expense. At a minimum turn lanes at the new intersection of State Route 60 and the new access road shall be provided at Permittee's expense prior to acceptance of waste at the Facility.
6. Permittee shall substantiate that no more than 5% of company controlled waste stream providers will access the Facility via Route 45 between Cartersville and Route 60. Excluded from this percentage shall be any providers servicing the Cartersville area. Furthermore, the Facility shall not accept any waste delivered by way of the Pemberton rail siding or any rail transfer station located in Fluvanna or Goochland Counties, Virginia.
7. The Permittee will provide for a vegetative buffer area with a minimum width of one hundred (100) feet between the Facility's disposal area and any adjoining property owners' property in order to shield the Facility from adjoining property and public roads, not including access points or areas of ingress or egress. In areas where the required buffer is not wooded, or such woods are sparse, Permittee shall engage in tree/vegetative planting (determined to be dense plantings, preferably evergreen, with a minimum height of six feet at planting) to further buffer such areas. Permittee shall avoid locating any new storm water management facilities within such buffer.

8. The height of any buildings will not exceed thirty-five (35) feet. The height of any appurtenant structures (such as leachate collection tanks will not exceed fifty-five (55) feet above existing ground elevation unless otherwise approved by the County at the time of site plan review.

9. The disposal footprint (that area of land upon which waste is directly deposited) of the Facility, as determined by the Virginia Department of Environmental Quality shall not exceed 265 acres.

10. The height of the landfill will not rise above the engineered elevations approved by the Virginia Department of Environmental Quality as a part of the Part A and Part B Review process. At no time shall the height of the landfill rise more than 225 feet above the highest existing ground elevation within the disposal boundary.

11. Permittee has submitted and the County has accepted a conceptual site plan for the Facility prepared by Brown and Caldwell, attached to the CUP Application as Figure 3 and entitled "Conceptual Facility Plan" (the "master site plan"). Permittee shall obtain approval of its final detailed site plans prior to constructing any buildings or other improvements on the Facility Property and prior to commencing operations at the Facility. Such final site plans shall provide, at a minimum and consistent with the Zoning Ordinance, detailed information regarding:

a) the location and design of all planned improvements, including, but not limited to roads, staging areas, parking areas, lighting, buildings and cells;

b) the location of streams, creeks and delineated wetlands, the topography, floodplains, soil and groundwater conditions of the area;

c) the specific buffers and any structures to be placed within the buffer areas adjoining the operational area (in accordance with the terms of this Conditional Use Permit) and the specific plans for landscaping and screening augmentation;

d) the specific steps to be taken to protect floodplains, wetlands, and water quality, and

e) drainage plans.

Such final site plans shall be submitted to the County Administrator, or designee, who shall review them for conformance with the terms of this Conditional Use Permit and the master site plan approved in connection with this Conditional Use Permit, with such modifications as may be approved at the time of site plan review.

12. The Permittee shall source recycling outlets for source-separated commodities such as newsprint, metal and glass and assist the County in obtaining its recycling goals (which are currently 25% of the total waste stream as set forth in the Solid Waste Management Plan), as those goals may be amended from time to time. The Permittee shall dispose or process all recyclables in a manner agreed to by the County.

13. Groundwater shall be monitored in accordance with all applicable state and federal laws and regulations and as required by all applicable permits. Copies of all required monitoring tests shall be provided to the County Administrator, or designee. Permittee shall authorize and otherwise permit the County to site and establish additional groundwater monitoring wells on, at and around the Facility.

14. All fuels stores at the Facility shall be maintained in approved corrosive-resistant, above ground storage tanks. Bulk fuels shall not be stored in buildings on the site. Fuel stores or other holding tanks at the Facility shall be noted on any site plan for approval by the County Administrator, or designee.
15. Pursuant to applicable state regulations, and prior to accepting waste, the Facility shall have an emergency management and contingency plan which delineates procedures for responding to fire and other emergency situations and submit such plan for County approval which shall not be unreasonably withheld.
16. The Facility shall comply with all applicable state and federal laws and regulations relating to closure of the Facility and post-closure monitoring. As part of the post-closure plans for the Facility, a Final Use Plan shall be prepared at the end of the operating life of the Facility.
17. The Permittee shall employ laborers to patrol the Facility and surrounding public property, including those public roads within one-half (1/2) mile of the new intersection of the access road and State Route 60, to collect litter.
18. The Facility shall comply with all applicable state and federal laws and regulations relating to the monitoring and control of landfill and methane gas produced at the Facility.
19. In order to prevent soil erosion at the Facility, the Permittee shall implement and maintain all stormwater management and erosion control measures as required by applicable state regulations and local ordinances.
20. The County Administrator, or designee, shall have the right to inspect the Facility during normal business hours.
21. The Permittee will be allowed to conduct waste disposal between the hours of 5:30am until 5:30pm Monday through Saturday. The Permittee will not conduct waste disposal on Sundays unless approved by the County. The Permittee may conduct waste disposal during the extended hours of 4:00am to 9:00pm or any portion of time therein, subject to the approval of the County.
22. At a minimum, the Permittee shall employ appropriate supervisors, managers and mechanics, as well as equipment operators, laborers and office personnel. The Permittee shall have sufficient equipment on site to ensure orderly operation of the Facility.
23. The Facility shall comply with all applicable state regulations pertaining to the placing of intermediate and final cover.
24. Consistent with applicable state regulations, the Permittee shall pay an annual fee to the County in an amount equal to the reasonable administration cost needed to monitor the Facility's compliance with conditions expressed in the use permit.
25. Upon request by the County Administrator or designee, Permittee shall submit all monitoring results obtained at the Facility pursuant to permit conditions or regulatory requirements.
26. In the event the Permittee does not remain in substantial compliance with the applicable federal, state or local laws, regulations or permit conditions, or is notified of any violation thereof, or is subject to any investigation or inspection thereof (due to a violation of applicable federal, state or local laws, regulations or

permit conditions), Permittee shall promptly notify the County Administrator, or designee, thereof and shall provide information pertinent thereto.

27. Permittee shall analyze leachate from the Facility not less than annually for the constituents specified in applicable state regulations. The Permittee shall provide copies of such analyses to the County Administrator or designee. Permittee shall manage all leachate at the Facility in accordance with applicable state regulations.

28. All vehicles leaving the Facility shall be cleaned as necessary to avoid tracking of mud or soil onto State Route 60.

29. Permittee shall have an inspection program of each truck to verify that all incoming waste is acceptable in content and origin. Records relating to waste accepted at the Facility shall be maintained and will be available for review at any time by the County Administrator or designee. The Permittee shall train all personnel employed at the Facility to identify unauthorized wastes, including having familiarity with typical containers, markings, labels and placards that might aid in recognizing unauthorized wastes.

30. The Permittee shall implement a surface water monitoring plan for natural streams and other surface water bodies located on or adjacent to the Facilities and which shall conform to applicable state requirements.

31. On-site permanent survey benchmarks for horizontal and vertical control will be established at the Facility. At least annually, a revised topographic survey of the working face shall be made and, upon request by the County Administrator, or designee, delivered to the administrator or designee.

32. Roads within the Facility shall be graded as necessary to maintain smooth, well-drained surfaces. During dry periods, these operating roads shall be sprayed with water, if necessary, to reduce dust problems. All roads necessary for the operation of the Facility shall be kept in passable condition. Primary access roads within the Facility shall be kept in a passable condition, before and after closure. Permanent unpaved roads shall be covered with gravel. Roads will have a setback of at least one-hundred (100) feet from adjacent property lines, except (i) as necessary to access the Facility, (ii) as contained in the approved Virginia Department of Environmental Quality Part A and Part B permits, and/or (iii) as otherwise approved at the time of site plan review.

33. The entrance road to the gatehouse, and the staging area, shall be paved.

34. Operations at the Facility shall not involve the use of any external speakers.

35. The sides of all borrow areas within the Facility shall be graded to prevent sudden changes in slopes. All stockpiles of overburden will be graded to minimize erosion potential and to prepare the site for future uses in the final plan.

36. This Conditional Use Permit shall not be transferred or assigned without the prior approval by the Board of Supervisors.

37. Following commencement of operations at the Facility, this Conditional Use Permit shall terminate if the landfill ceases to operate and maintain the required state permits for four (4) years or more.

38. In lieu of the noise standards set forth in Section 74-588(a)(1) of the Zoning Ordinance, the following standard shall apply to the Facility: Any noise

resulting from the Facility's operations, defined to include all aspects of the Permittee's work once the Facility begins operations, shall not exceed sixty-seven decibels at the property of the nearest residence currently sited on a residential lot. If the noise level at such line exceeds the permitted limit, the Company, currently sited on a residential lot, shall be afforded reasonable opportunity to take corrective measures to eliminate such noise that exceeds the aforementioned threshold level.

39. In lieu of the glare and lighting standards set forth in Section 74-588(a)(2) of the Zoning Ordinance, the following standard shall apply to the Facility: Once construction of the ancillary facilities located within the Facility are complete, the maximum illumination at the property lines of the Facility shall be limited to .5 foot candles. Permanent exterior lighting fixtures on the Facility property shall not exceed thirty (30) feet in height above grade level. The exterior lighting fixtures shall be "shoebox" or similar type capable of shielding the light source from direct view. Temporary working lights utilized on the face of the disposal area shall be specifically excluded from the limitations contained herein.

40. In lieu of the odor standards set forth in Section 74-588(a)(9) of the Zoning Ordinance, the following standard shall apply to the Facility: The Facility will implement a landfill gas management plan with an odor control and corrective measures plan ("OCCMP") component. The OCCMP shall consist of the following elements: 1) Objective, 2) Source Identification, 3) Reporting and Monitoring, 4) Operational Controls, and 5) Landfill Gas System. Should the Company have received three (3) verified complaints regarding odor from three (3) or more residences (located within one mile of the Facility) within any forty-eight (48) hour period, the Company shall initiate a corrective action plan ("CAP"). In the event that the initial CAP does not remedy the cause of the odor within 30 days of receipt of the verified complaints, a revised CAP with an objective remedial endpoint will be submitted to the County for its reasonable approval. A cumulative reading of less than 15 ppb hydrogen sulfide (H₂S) based on a one (1) hour average over a continuous twelve (12) hour monitoring period at the subject residences and a reading of less than 1 ppm hydrogen sulfide (H₂S) based on a twelve hour average at the Facility boundary closest to the subject residences (located within one mile of the Facility) shall be deemed to be a satisfactory remedial endpoint. The remedial endpoint shall be waived, and deemed met, if it is determined that the cause of the odor exceeding the satisfactory remedial endpoint is not materially attributable to the Facility.

41. All documents received by the County from Permittee, with the exception of proprietary information, shall be public records subject to the Virginia Freedom of Information Act.

f. The Board of Supervisors further requires that a copy of the final ordinance granting the Conditional Use Permit be recorded in the Office of the Clerk of the Circuit Court for Cumberland County.

[END OF RESOLUTIONS – PART TWO]

EXHIBIT A - LEGAL DESCRIPTION

Being located in Cumberland County, Virginia and being further described as follows: Beginning at a point on the northern right-of-way of SR 645, Goshen Road, and located at the southwest corner of tax parcel # 59-A-4, listed as John Hancock Mutual Life Insurance, and described by a deed recorded at deed book 236, page 1, thence N3°-22'-37"W – 2871.01', N2°-51'-42"W – 129.52', N2°-04'-02"E – 1708.85', N56°-28'-48"E – 990.62', N64°-30'-45"E – 2006.44', N74°-16'-49"E – 1110.91', S89°-19'-17"E – 598.23', S28°-57'-45"W – 644.81', S87°-56'-41"E – 338.49', N28°-40'-15"E – 522.30', S88°-05'-11"E – 687.59', S3°-18'-17"E – 2387.40', S71°-30'-34"W – 1635.51', S32°-22'-56"W – 994.46', S0°-00'-00"E – 1318.63', S89°-03'-56"W – 621.02', S3°-49'-33"E – 1458.90', S86°-56'-46"W – 250.51', S86°-49'-02"W – 856.28', S85°-27'-40"W – 107.00', S89°-27'-40"W – 483.54', N59°-08'-21"W – 20.96', along a curve to the left having a radius of 1452.39', a length of 274.19', and a chord of N64°-32'-51"W – 273.78', N69°-57'-21"W – 451.27', along a curve to the left having a radius of 838.51', a length of 306.35', and a chord of N80°-25'-20"W – 304.65' to the point of beginning containing 556.921 acres.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

3. Obscurity Land Development LLC – request to rezone approximately 120 acres from A-2 to R-2 for supporting activities of a proposed landfill.

On a motion by Mrs. Ross and carried, the Board of Supervisors adopted and approved the following resolution:

RECITALS AND RESOLUTIONS

RECITALS:

WHEREAS, Obscurity Land Development, LLC (the “Applicant”) filed a conditional rezoning application and supporting materials (the “Conditional Rezoning Application”) seeking to rezone the property described below from A-2 and R-2 to M-2C in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); and

WHEREAS, the subject property is all or a portion of Tax Map Parcels 51-A-14, 51-A-16, 52-A-2, and 52-A-26, containing in the aggregate approximately 119.61 acres, more or less, as shown in Figure 2 of the Application Package and more particularly described on Exhibit A attached hereto entitled “Legal Description” (hereinafter referred to as the “Access Property”); and

WHEREAS, the Board of Supervisors duly referred the Conditional Rezoning Application to the County Planning Commission for its recommendation on August 12, 2006; and

WHEREAS, the Planning Commission directed staff to make the Conditional Rezoning Application available for public review; and

WHEREAS, the Planning Commission duly advertised and held public workshops and hearings on September 6, September 11, September 18 and October 10; and

WHEREAS, after the Planning Commission duly considered the testimony and evidence presented at the public hearings and workshops in support or opposition to the proposed Conditional Rezoning Application and gave reasonable consideration to numerous factors, including but not limited to the County's Comprehensive Plan and the suitability of the Access Property for various uses, the Planning Commission adopted a resolution on October 10, 2006, recommending the granting of the conditional rezoning; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on October 17, 2006; and

WHEREAS, the Board of Supervisors carefully considered the Planning Commission's recommendation and the testimony and evidence presented at the public hearing on October 17, 2006, in support or opposition to the proposed Conditional Rezoning Application, including among other things documentation, information and data related to environmental monitoring and protection, traffic, noise, odor, lighting, property valuations and other pertinent and relevant issues, the input of the applicant, and its engineers and traffic consultants, input from the general public, and the County's engineers; and

WHEREAS, in its review of the Conditional Rezoning Application, the Board of Supervisors gave reasonable consideration to numerous factors, including but not limited to the following: the existing use and character of the Access Property, the County's Comprehensive Plan, the suitability of the Access Property for various uses, the trends of growth or change, and the current and future requirements of the County as to land for various purposes as determined by population and economic studies; and

WHEREAS, after discussion, staff presentation and due deliberation with respect to such information and data, including documentation, information and materials presented at this public hearing, the Board of Supervisors desires to affirm its findings and to take action with respect to the Conditional Rezoning Application; and

RESOLUTIONS:

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, as follows:

- i. The foregoing recitals are hereby incorporated by this reference.
- j. Upon consideration of the foregoing and the conditions and standards set forth in the Zoning Ordinance, including Section 74-671, et seq., the Board of Supervisors considers it appropriate to rezone the Access Property in accordance with the Conditional Rezoning Application.
- k. The Board of Supervisors further finds that the request made in the Conditional Rezoning Application is in substantial accordance with the County's Comprehensive Plan.
- l. The Board of Supervisors has also determined that the request made in the Conditional Rezoning Application furthers the general purpose and objectives of the Zoning Ordinance and would be beneficial and appropriate taking into consideration public necessity, convenience, general welfare and good zoning practice.
- m. Upon consideration of the foregoing, the Board of Supervisors grants the request in Conditional Rezoning Application #06-08-02 and rezones the Access Property from A-2 and R-2 to M-2C, subject to the voluntarily proffered conditions set forth in the Applicant's proffer statement titled "Proffers for Conditional Rezoning" submitted by owner and contract purchaser dated August 1, 2006, and as amended by addendum dated September 21, 2006, a copy of which Proffers are attached hereto as Exhibit B;
- n. The Board further requires a copy of the final ordinance granting the Conditional Rezoning Application, together with the Proffers accepted by the Board, to be recorded in the Office of the Clerk of the Circuit Court for Cumberland County and placed in the County's Conditional Zoning Index and Property Files as applicable.

[END OF RESOLUTIONS]

EXHIBIT A - LEGAL DESCRIPTION

Being located in Cumberland County, Virginia and being further described as follows: Commencing at a point on the southern right-of-way of Highway No. 60 and located at the northwest corner of tax parcel # 52-1-1, listed as Georgette Richie, and described by a deed recorded at instrument # 20051516, thence with said right-of-way S67°-42'-10"W – 1037.21' to the point of beginning, thence S1°-37'-45"W – 3286.86', S25°-16'-22"E – 592.28', N61°-30'-02"E – 582.37',

S2°-58'-23"W – 1216.82', S26°-49'-52"E – 628.72', S3°-20'-50"E – 792.64', S3°-18'-17"E – 248.76', N88°-05'-11"W – 687.59', S28°-40'-15"W – 522.30', N87°-56'-41"W – 338.49', N28°-57'-45"E – 995.27', N33°-32'-05"W – 1841.46', N61°-23'-11"E – 483.78', N25°-16'-22"W – 571.98', N1°-37'-45"E – 3390.28', N67°-42'-10"E – 629.06' to the point of beginning containing 119.606 acres.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

4. Obscurity Land Development LLC – request CUP on approximately 200 acres for borrowing activities

On a motion by Elbert Womack and carried, the Board of Supervisors adopted and approved the following resolution:

WHEREAS, Obscurity Land Development, LLC (the “Applicant”) filed a conditional use permit application and supporting materials (the “CUP Application”) seeking to obtain a conditional use permit in accordance with Chapter 74 of the Cumberland County Code of Ordinances (the “Zoning Ordinance”); and

WHEREAS, the subject property is all or a portion of Tax Map Parcels 51-A-14 and 59-A-3, containing in the aggregate approximately 199.61 acres, more or less, as shown in Figure 2 of the CUP Application and more particularly described on Exhibit A attached hereto entitled “Legal Description” (hereinafter the “Borrow Property”); and

WHEREAS, the Board of Supervisors duly referred the CUP Application to the County Planning Commission for its recommendation on August 12, 2006; and

WHEREAS, the Planning Commission directed staff to make the CUP Application available for public review; and

WHEREAS, the Planning Commission duly advertised and held public workshops and hearings on September 6, September 11, September 18 and October 10; and

WHEREAS, after the Planning Commission duly considered the testimony and evidence presented at the public hearings and workshops in support or opposition to the proposed CUP Application and gave reasonable consideration to numerous factors, including but not limited to the County’s Comprehensive Plan and the suitability of the Borrow Property for various uses, the Planning Commission adopted a resolution on October 10, 2006, recommending the granting of the conditional use permit; and

WHEREAS, the Board of Supervisors duly advertised and held a public hearing on October 17, 2006; and

WHEREAS, the Board of Supervisors carefully considered the Planning Commission's recommendation and the testimony and evidence presented at the public hearing on October 17, 2006, in support or opposition to the proposed CUP Application, including among other things documentation, information and data related to environmental monitoring and protection, traffic, noise, odor, lighting, property valuations and other pertinent and relevant issues, the input of the applicant, and its engineers and traffic consultants, input from the general public, and the County's engineers; and

WHEREAS, in its review of the CUP Application, the Board of Supervisors gave reasonable consideration to numerous factors, including but not limited to the following: the existing use and character of the Borrow Property, the County's Comprehensive Plan, the suitability of the Borrow Property for various uses, the trends of growth or change, and the current and future requirements of the County as to land for various purposes as determined by population and economic studies; and

WHEREAS, after discussion, staff presentation and due deliberation with respect to such documentation, information and data, including information and materials presented at this public hearing, the Board of Supervisors desires to affirm its findings and take action with respect to the CUP Application;

RESOLUTIONS:

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, as follows:

- o. The foregoing recitals are hereby incorporated by this reference.
- p. Upon consideration of the foregoing and the conditions and standards set forth in the Zoning Ordinance, including Sections 74-143, 74-150 and 74-702, the Board of Supervisors grants the conditional use permit.
- q. The Board of Supervisors has determined that the request made in the CUP Application furthers the general purposes and objectives of the Zoning Ordinance, is consistent with the County's Comprehensive Plan, and would be beneficial and appropriate taking into consideration public necessity, convenience, general welfare and good zoning practice.
- r. Upon consideration of the foregoing, the Board of Supervisors grants the request in Conditional Use Permit Application #06-08-03 for a conditional use permit to conduct such activities on the Borrow Property as may be permitted

under Section 74-143 (18) of the Zoning Ordinance in accordance with the provisions thereof and applicable state law and regulations, subject to the Applicant's compliance with the following conditions (collectively, the "CUP Conditions"):

42. Copies of all applications for state and federal permits, along with information submitted in any permit application process, shall be provided to the County Administrator, or designee, upon request.

43. The Applicant will provide for a vegetative buffer area with a minimum width of one hundred (100) feet between any of its operational activities and structures and any adjoining property owners' property in order to shield such activities and structures from the adjoining property and public roads, not including access points or areas of ingress or egress. In areas where the required buffer is not wooded, or such woods are sparse, Applicant shall engage in tree/vegetative planting (determined to be dense plantings, preferably evergreen, with a minimum height of six feet) to further buffer such areas.

44. All fuels stored on the property shall be maintained in approved corrosive-resistant, above ground storage tanks. Bulk fuels shall not be stored in buildings on the property.

45. In order to prevent soil erosion on the property, the Applicant shall implement and maintain all stormwater management and erosion control measures as required by applicable state regulations and local ordinances.

46. Roads within the property shall be graded as necessary to maintain smooth, well-drained surfaces. During dry periods, these operating roads shall be sprayed with water, if necessary, to reduce dust problems. All roads necessary for the operation of the facility shall be kept in passable condition. Primary access roads within the facility shall be kept in a passable condition, before and after closure. Permanent unpaved roads shall be covered with gravel. Roads will have a setback of at least one-hundred (100) feet from adjacent property lines.

47. Borrowing activity, extraction and stockpiling of soil, clay, gravel and other similar material will be in compliance with best practices and the provisions of Chapter 34, Article 2 of the County Code, pertaining to erosion and sediment control and the Zoning Ordinance provisions of Section 74-150.

48. All documents received by the County from Applicant, with the exception of proprietary information, shall be public records subject to the Virginia Freedom of Information Act.

49. Applicant has submitted and the County has accepted a conceptual site plan for the property prepared by Brown and Caldwell, attached to the CUP Application as Figure 3 and entitled "Conceptual Site Plan" (the "master site plan"). Applicant shall obtain approval of its final detailed site plans prior to constructing any buildings or other improvements on the Borrow Property and prior to commencing borrowing operations thereon. Such final site plans shall provide, at a minimum and consistent with the Zoning Ordinance, detailed information regarding:

a) the location and design of all planned improvements, including, but not limited to roads, staging areas, parking areas, lighting, and buildings;

- b) the location of streams, creeks and delineated wetlands, the topography, floodplains, soil and groundwater conditions of the area;
- c) the specific buffers and any structures to be placed within the buffer areas adjoining the operational area (in accordance with the terms of this Conditional Use Permit) and the specific plans for landscaping and screening augmentation;
- d) the specific steps to be taken to protect floodplains, wetlands, and water quality, and
- e) drainage plans.

Such final site plans shall be submitted to the County Administrator, or designee, who shall review them for conformance with the terms of this Conditional Use Permit and the master site plan approved in connection with this Conditional Use Permit, with such modifications as may be approved by the Planning Commission at the time of site plan review.

e. The Board further requires that a copy of the final ordinance granting the Conditional Use Permit to be recorded in the Office of the Clerk of the Circuit Court for Cumberland County.

[END OF RESOLUTIONS]

EXHIBIT A – LEGAL DESCRIPTION

Being located in Cumberland County, Virginia and being further described as follows: Beginning at a point located at the southwest corner of tax parcel #51-A-14A, listed as Curtis Franklin Marion, and described by a deed recorded at deed book 232, page 647, thence S77°-02'-00"E – 140.03', S73°-27'-28"E – 160.65', S71°-16'-14"E – 239.09', along a curve to the left having a radius of 106.47', a length of 116.79', and a chord of N77°-18'-18"E – 111.02', N45°-52'-51"E – 47.85', along a curve to the right having a radius of 235.51', a length of 105.21', and a chord of N58°-40'-45"E – 104.34', N71°-28'-39"E – 48.84', along a curve to the left having a radius of 253.45', a length of 123.40', and a chord of N57°-31'-46"E – 122.18', N43°-34'-53"E – 230.41', N21°-02'-31"E – 21.84', N68°-52'-42"E – 863.53', N81°-19'-31"E – 419.09', N31°-54'-21"E – 897.21', S76°-43'-40"E – 1081.27', S61°-23'-11"W – 321.33', S33°-32'-05"E – 1841.46', S28°-57'-45"W – 350.46', N89°-19'-17"W – 598.23', S74°-16'-49"W – 1110.91', S64°-30'-45"W – 2006.44', S56°-28'-48"W – 867.96', N3°-57'-38"W – 2523.88' to the point of beginning containing 199.614 acre.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

4. Departments / Agencies

- a) David Smith, Cumberland Extension Agent, addressed the Board seeking a letter of support for his request for \$500,000 in grant funds from the Virginia Tobacco Indemnification and Community Revitalization Commission. The requested funds are for the Central Virginia Value-Added Beef Initiative and will be awarded in January 2007.

On a motion by Mrs. Ross and carried the Board agreed to send a letter of support to the Virginia Tobacco Indemnification and Community Revitalization Commission.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

- b) Emergency Services Committee report

Kevin Ingle addressed the Board and thanked Cumberland and Town of Farmville communications officers for their help in dealing with the bridge construction situation at the Cumberland/Farmville line. Mr. Ingle informed the Board that Cumberland Fire Department had been working with the school system and a representative of the Administration Office to reduce the number of false calls to the school. Mr. Ingle stated that their efforts had greatly improved the situation.

- c) Planner – Catherine Kahl – Proclamation celebrating World town Planning Day

On a motion by Mr. Osl and carried, the Board of Supervisors adopted and approved the following proclamation:

WHEREAS, November 8 of each year has been celebrated as WORLD TOWN PLANNING DAY; and

WHEREAS, November 8 of each year has been celebrated as World Town Planning Day in many countries since its inception in 1949; and

WHEREAS, The American Planning Association and the American Institute of Certified Planners (AICP), the Professional Institute of the American Planning Association endorse World Town Planning Day as an opportunity to highlight the contributions sound planning makes to the quality of our settlements and environment and to celebrate American accomplishments in making collective decisions concerning our cities and regions that bring quality and meaning to our lives; and

WHEREAS, the celebration of World Town Planning Day gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the County of Cumberland; and

WHEREAS, We recognize the many valuable contributions made by professional community and regional planners of the County of Cumberland and extend our heartfelt thanks for the continued commitment to public service;

NOW, THEREFORE, BE IT RESOLVED THAT, November 8, 2006, is hereby designated as

COMMUNITY AND REGIONAL PLANNING DAY

Vote: Mr. Osl – aye Mr. White – aye
 Mr. Petty – aye Mr. Womack – aye
 Mrs. Ross – aye

5. Assistant Administrator / Finance & Human Resources

- a) On a motion by Mr. White and carried, the Board appropriated \$785,126.84 to the School to cover unanticipated mechanical and electrical expenses related to renovations at the Middle School complex.

Vote: Mr. Osl – aye Mr. White – aye
 Mr. Petty – aye Mr. Womack – aye
 Mrs. Ross – aye

- b) Mrs. Matthews presented the quarterly budget report to the Board for review. The Chairman requested that the budget report be submitted to the Board monthly as opposed to quarterly.

6. County Administrator’s Report

- a) Consent Agenda

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

On a motion by Mr. Womack and carried, the Board approved the following items in the consent agenda as presented:

- 1) Approved minutes for September 2006
- 2) Approval of bills – October & November
- b) Roof bids – Clerk’s office & Flippen building

On a motion by Mr. Osl and carried, the Board authorized the County Administrator to accept a bid from Roofing and Restoration, Inc. in the amount of \$144,687.00

including Base Bid 1A and Base Bid 2, for the Clerk's Office roof and Flippen Building.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

- c) Appoint voting delegate / alternate for VACo Annual meeting

On a motion by Mrs. Ross and carried, the Board appointed Mr. Osl as voting delegate and Mr. Petty as alternate for the VACo Annual meeting.

Vote:	Mr. Osl – aye	Mr. White – aye
	Mr. Petty – aye	Mr. Womack – aye
	Mrs. Ross – aye	

- d) Ms. Ownby reviewed the 2007 Legislative Agenda, Prince Edward's agenda and additional information from VACo with the Board. The Board requested that minor changes be made to be reviewed at the November 14th regular meeting.

7. Assistant County Administrator's Report

The Virginia Department of Conservation and Recreation will hold a dedication for the new cabins at Bear Creek Lake on November 30, 2006. Ms. Swinson anticipates that the new facilities and cabins will be a tremendous tourism and economic development asset to the community.

Ms. Swinson reported that the main well house was nearing completion and the County water system will be operational by mid-November. A walk through is scheduled for October 23, 2006. Letters will be mailed to residents to alert them of the start-up date and lay out details of connecting and future billing information.

The Old Dominion RC & D met on Monday, October 16 to discuss the addition of the ball fields and recreation complex at the Luther P. Jackson School to their annual projects and plan of works.

Ms. Swinson plans to submit the streetlight project along the Route 60 corridor for Transportation Enhancement funds before the November 1, 2006 deadline. There are plans to combine any grant funds received with contributions from local businesses, civic groups and a number of interested citizens.

8. County Attorney's Report

- a) The County Attorney submitted a draft ordinance for Tall Grass and Animals for the Board's consideration. After a brief overview of the draft the Board agreed to discuss the proposed ordinance at a meeting to be held on October 30, 2006.

9. Board Members

Mr. White stated that the Request for Bids on the Flippen Building Project would soon be advertised. There was a recent meeting with Draper Aden to discuss the proposed middle school athletic complex, using \$90,000 previously allocated in the CIP fund for a new Bear Creek Lake ball field facility. Mr. White hoped to save a substantial amount of money by enlisting assistance from the Virginia National Guard on grading and site preparation.

Mr. Petty reviewed several planned events for the Jamestown 2007 celebration and encouraged participation from Cumberland citizens.

Mrs. Ross invited Board members to the open house at the newly construction Crossroads residential facility.

Mr. Womack invited Board members to the check acceptance ceremony for the new fire truck at the Randolph Fire House. The ceremony will be held on October 23, 2006 at 11:00 am.

After a consensus was reached among the Board members, Mr. Osl directed the County Administrator to draft a resolution opposing the closure of Area VDoT Headquarters for consideration at the October 30 meeting.

Mr. Osl requested that the County Administrator draft a letter to the office of Governor Kaine opposing modifications to Section 15.2-2286 of the Code of Virginia, which refers to clustering of single family dwellings.

Mr. Osl congratulated the Constitutional Officers, the County Administrator and Assistant Administrator/Finance & Human Resources on an excellent report from the State Auditors after review of the Constitutional Officers expenditure of state funds.

10. Public Comments

The Chairman opened the meeting for public comment.

Three citizens spoke during the public comments section of the meeting expressing concerns for possible quality of air issues associated with the proposed landfill.

11. Additional Information

A public hearing on the VDoT six-year plan was set for November 14, 2006.

The Chairman adjourned the meeting. The next meeting will be held October 30, 2006 at 6:00 p.m. in the Cumberland Courthouse.