

At a regular meeting of the Cumberland County Board of Supervisors held at 7:00 p.m. on the 9<sup>th</sup> day of December 2008, at the Cumberland County Circuit Court Room:

Present: William F. Osl, Jr., Chairman, District 1  
Timothy Kennell, District 2  
Van Petty, Vice Chairman, District 3  
Elbert Womack, District 4  
Robert Oertel, District 5  
Howard Estes, County Attorney  
Judy Ownby, County Administrator  
Jill Matthews, Assistant County Administrator  
Mike Cooper, Assistant County Administrator  
Andrew Sorrell, Zoning Administrator  
Stephany Johnson, Deputy Clerk

Absent: None

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

The invocation was led by Supervisor Petty, and the Pledge of Allegiance was led by the Chairman.

1) **Approval of Agenda-**

On a motion by the Chairman and carried, the board amended the agenda as follows:

- 5) Asst. County Administrator/Finance
  - a) Consent Agenda
    - 3) Appropriation to the Clerk's office - \$5,842.00  
Reimbursed from the VA Circuit Court Records  
Preservation Program Grant

Vote: Mr. Osl – aye      Mr. Kennell – aye  
Mr. Petty – aye      Mr. Womack – aye  
Mr. Oertel – aye

2) **VDoT - Alan Leatherwood, Resident Engineer-**

VDoT Resident Engineer, Alan Leatherwood stated that there is nothing of substance to report, but would answer any questions the Board may have. Supervisor Oertel suggested Mr. Leatherwood consider reviewing the signs that are in place on Rt. 600 at the crossing of the High Bridge Trail. Mr. Leatherwood stated that a review was conducted recently of that area, and the signs posted are appropriate for the crossing. The Chairman questioned Mr. Leatherwood about the position of the speed limit sign in Cartersville, near the Cartersville Community House. Mr. Leatherwood responded by stating that a study has already been conducted, and the relocation has been approved and completed.

3) **Public Hearings –**

- a) Proposed refinancing of certain infrastructure improvements in an amount not to exceed \$20,200,000

County Attorney, Howard Estes reviewed the proposed Resolution. The Chairman opened the Public Hearing, and with no citizens signed up to speak, he then closed the Public Hearing.

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

**- RESOLUTION -**

**APPROVING THE ISSUANCE AND SALE OF A PUBLIC  
FACILITY LEASE REVENUE NOTE IN THE MAXIMUM PRINCIPAL  
AMOUNT OF \$20,200,000, AND THE EXECUTION AND DELIVERY OF  
CERTAIN DOCUMENTS PREPARED IN CONNECTION THEREWITH**

**December 9, 2008**

**WHEREAS**, Cumberland County, Virginia (the "County"), has previously submitted an application to the Industrial Development Authority of the County of Stafford and the City of Staunton, Virginia (the "Authority"), to refinance all or a portion of the costs of certain infrastructure improvements, including the acquisition, construction, renovation and equipping of capital facilities and projects for a combined middle school and high school, renovations to other school-related facilities, acquisition of emergency services vehicles and

equipment, acquisition and renovation of emergency services facilities, and renovation and repair to other County facilities (collectively, the "Project"), together with related costs and expenses, through the Virginia Municipal League/Virginia Association of Counties Direct Loan Finance Program, and the Authority has indicated its willingness to refinance the Project from the proceeds of its revenue bonds (the "Authority's Bonds"), in accordance with the terms of a Loan Agreement between the Authority and the County (the "Loan Agreement"), the form of which has been presented to this meeting;

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF CUMBERLAND COUNTY, VIRGINIA (THE "BOARD"):**

1. **Issuance of Note and Use of Proceeds.** Pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991 (the "Act"), and without regard to the requirements, restrictions or other provisions contained in any charter or local or special act applicable to the County, the Board hereby provides for the issuance and sale of a public facility lease revenue note (the "Note") of the County in a maximum principal amount of \$20,200,000, to provide funds to refinance the Project and to pay related costs, including costs incurred in issuing the Note.

2. **Authorization of Loan Agreement.** The form of the Loan Agreement and the Note submitted to this meeting and the forms of the following leases and assignment (collectively, the "Loan Documents") are hereby approved:

(a) a Prime Lease (the "Prime Lease") between the County and the Cumberland County School Board (the "School Board") conveying to the County a leasehold interest in certain real property and improvements, including all or a portion of the property on which the Project is located (the "Property");

(b) a Lease Agreement (the "Lease Agreement") between the School Board and the County conveying a leasehold interest in the Property back to the School Board; and

(c) an Assignment Agreement (the "Assignment Agreement") from the County to the trustee for the Authority

assigning certain rights of the County under the Prime Lease and the Lease Agreement to such trustee as security for the Note.

The County Administrator and the Chairman of the Board are each authorized to execute the Loan Agreement in substantially the form presented at this meeting, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery thereof. The issuance and sale of the Note to the Authority shall be upon the terms and conditions of the Loan Agreement. The proceeds of the Note shall be applied in the manner set forth in the Loan Agreement and related documents. All capitalized terms used but not defined herein shall have the same meaning as set forth in the Loan Agreement.

3. **Note Details.** The Note shall be issued as a single, registered note, shall be designated "Public Facility Lease Revenue Note" (the "Note"), with an appropriate series designation, and shall be numbered R-1. The Board authorizes the issuance and sale of the Note on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; provided, however, that the Note (a) shall be in a principal amount not exceeding \$20,200,000, (b) shall mature no later than August 1, 2028, and (c) shall bear interest on the outstanding principal balance thereof at a rate of interest approved by the County Administrator or the Chairman of the Board, but not to exceed 6% per annum (excluding any default payments and Extraordinary Program Expenses that might arise), and shall accrue certain other ongoing costs and expenses upon the terms and conditions described in the Loan Agreement. Subject to the preceding terms, the Board further authorizes the County Administrator or the Chairman of the Board to (a) determine the final principal amount of the Note and (b) to establish the maturity date and principal amortization schedule (including the principal installment dates and amounts) for the Note in such manner as the County Administrator or the Chairman of the Board shall determine to be in the best interest of the County. The County Administrator or the Chairman of the Board's approval of the final terms, purchase price, initial interest rate, interest rate adjustment provisions, maturity date and amortization schedule of the Note shall be evidenced by the execution and delivery of the Note, and no further action shall be

necessary on the part of the County. As set forth in the Loan Agreement, the County agrees to pay the Program Expenses associated with the Note and the Loan Agreement, together with any applicable late payment or similar costs and expenses described therein. The principal of and premium, if any, and interest on the Note shall be payable in lawful money of the United States of America.

4. **Additional Payments.** The County acknowledges that the Loan Documents will further require the County and the School Board to pay, on a subject to appropriation basis, certain Direct Loan Finance Program expenses associated with the Note and the Loan Agreement, together with any applicable default payment, late payment or similar costs and expenses described therein, including, without limitation, certain Extraordinary Program Expenses (as defined in the Loan Agreement to include, among other things, amounts payable in connection with arbitrage or rebate calculations, amounts payable in connection with reimbursements under, or requirements to replace, the Letter of Credit maintained by the Authority under the Direct Loan Finance Program, and any early termination payments owed by the Authority under the Interest Rate Hedge Agreement entered into by the Authority in connection with the Direct Loan Finance Program). The County further acknowledges the disclosure set forth in Appendix A to the Loan Agreement concerning the Interest Rate Hedge Agreement and expressly authorizes the County's acknowledgement set forth therein; provided that a termination of the Interest Rate Hedge Agreement will not occur absent an event of default or termination event respecting the Interest Rate Hedge Counterparty, the Authority, the County or the School Board, as more fully described in Appendix A to the Loan Agreement.

5. **Payment and Redemption Provisions.** The principal of and premium, if any, and interest on the Note shall be payable as set forth in the Note and the Loan Agreement. The County may, at its option, redeem, prepay or refund the Note upon the terms set forth in the Loan Agreement.

6. **Execution and Form of Note.** The Note shall be signed by the County Administrator or the Chairman of the Board, and the County's seal shall be affixed thereon and attested by the Clerk of the

Board. The Note shall be issued as a typewritten note in a form sufficient to evidence the County's obligations under the Loan Agreement, consistent with the terms of this Resolution, and approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Note.

7. **Security for the Note.** Any other provision of the Loan Agreement, the Note or any Security Instruments to the contrary notwithstanding, the County's obligation to make payments under the Loan Agreement, the Loan and the other Loan Documents is hereby specifically stated to be subject to annual appropriation therefor by the Board, and nothing in the Loan Agreement, the Loan or in the other Loan Documents shall constitute a pledge of the full faith and credit nor taxing power of the County nor compel the Board to make any such appropriation; however, the Board, while recognizing that they are not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations in future fiscal years, and hereby recommends that future Boards do likewise. The obligation of the County to make payments under the Loan Agreement does not constitute a debt of the County within the meaning of any constitutional or statutory limitation nor a liability of or a charge upon funds or property of the County beyond any moneys appropriated to make such payments as current expenses of the County. The County is entering into the Loan Documents in order to obtain financing on a subject to appropriation basis as current expenses of the County and not pursuant to the County's long-term borrowing powers.

8. **Preparation of Printed Note.** Upon the reasonable request of the registered owner and upon presentation of the Note at the office of the Registrar (as hereinafter defined), the County shall arrange to have prepared, executed and delivered in exchange as soon as practicable the Note in typewritten form in an aggregate principal amount equal to the unpaid principal of the Note, in denominations of \$100,000 and integral multiples of \$5,000 in excess thereof, of the same form and maturity and registered in such names as requested by the registered owners or their duly authorized attorneys or legal representatives. The printed Note may be executed by manual or facsimile signature of the County Administrator or the Chairman of the Board, with the County's seal affixed thereto and attested by the

Clerk of the Board; provided, however, that, if both such signatures are facsimiles, no Note shall be valid until it has been authenticated by the manual signature of the Registrar and the date of authentication noted thereon. The typewritten Note surrendered in any such exchange shall be canceled.

9. **Registration and Transfer of the Note.** The County appoints the County Treasurer as paying agent and registrar (the "Registrar") for the Note. If deemed to be in the County's best interest, the County Administrator or the Chairman of the Board may at any time appoint a qualified bank or trust company, or another official of the County, as successor Registrar. The Note may be transferred only by an assignment duly executed by the registered owner thereof in form satisfactory to the Registrar in exchange for a single, new Note having an equal maximum principal amount, of the same form and maturity, and bearing interest at the same rates. Such transfer shall be made in the registration books kept by the Registrar, upon presentation and surrender hereof. The Registrar shall treat the registered owner as the person or entity exclusively entitled to payment of principal, premium, if any, and interest, and the exercise of all other rights and powers of the owner.

10. **Mutilated, Lost or Destroyed Note.** If the Note has been mutilated, lost or destroyed, the County shall execute and deliver a new Note of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Note or in lieu of and in substitution for such lost or destroyed Note; provided, however, that the County shall so execute and deliver only if the registered owner has paid the reasonable expenses and charges of the County in connection therewith and, in the case of a lost or destroyed Note, (a) has filed with the County evidence satisfactory to the County that such Note was lost or destroyed and (b) has furnished to the County satisfactory indemnity.

11. **Preparation and Delivery of Note.** The County Administrator and the Chairman of the Board are authorized and directed to take all proper steps to have the Note prepared and executed in accordance with its terms and to deliver it to the Authority as the purchaser thereof upon receipt of the purchase price from the Authority as set forth in the Loan Agreement.

12. **Arbitrage Covenants.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Note to be includable in the gross income of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Note, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Note from being included in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from legally available funds.

13. **Tax and Other Documents.** The County Administrator and the Chairman of the Board are each authorized and directed to execute and deliver a Tax Certificate as to Arbitrage, an IRS Form 8038-G and a Program Administration Agreement, each in a form approved by such officers and the County's bond counsel.

14. **Other Actions.** All other actions of County officials in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Note are ratified, approved and confirmed. The County officials are authorized and directed to execute and deliver all certificates and other instruments considered necessary or desirable in connection with the issuance, sale and delivery of the Note pursuant to this Resolution and the Loan Agreement.

15. **Filing of Resolution.** The County Attorney and the County Administrator are authorized and directed to coordinate the prompt filing of a certified copy of this resolution in the Circuit Court of Cumberland County, Virginia, in accordance with Section 15.2-2607 of the Act.

16. **Effective Date.** This Resolution shall take effect immediately.

## CERTIFICATE

The undersigned Clerk of the Board of Supervisors Cumberland County, Virginia (the "Board"), hereby certifies that:

1. A meeting of the Board was duly called and held on December 9, 2008 (the "Meeting").

2. Attached hereto is a true, correct and complete copy of a resolution (the "Resolution") of the Board entitled "Resolution of the Board of Supervisors Cumberland County, Virginia, Approving the Issuance and Sale of a Public Facility Lease Revenue Note in the Maximum Principal Amount of \$20,200,000, and the Execution and Delivery of Certain Documents Prepared in Connection Therewith," as recorded in full in the minutes of the Meeting and duly adopted by a majority of the members of the Board present and voting during the Meeting.

3. A summary of the members of the Board present or absent at the Meeting, and the recorded vote with respect to the Resolution, is set forth below:

Member Name	Voting				
	Present	Absent	Yes	No	Abstaining
William F. Osl, Jr., Chairman	<u>X</u>	<u>          </u>	<u>X</u>	<u>          </u>	<u>          </u>
Timothy M. Kennell	<u>X</u>	<u>          </u>	<u>X</u>	<u>          </u>	<u>          </u>
Robert J. Oertel	<u>X</u>	<u>          </u>	<u>X</u>	<u>          </u>	<u>          </u>
Van H. Petty	<u>X</u>	<u>          </u>	<u>X</u>	<u>          </u>	<u>          </u>
Elbert R. Womack	<u>X</u>	<u>          </u>	<u>X</u>	<u>          </u>	<u>          </u>

4. The Resolution has not been repealed, revoked, rescinded or amended, and is in full force and effect on the date hereof.

- b) Consider off-duty employment for Sheriff's deputies

County Attorney, Howard Estes reviewed the proposed Resolution. The Chairman opened the Public Hearing, and with no citizens signed up to speak, he then closed the Public Hearing.

**BOARD OF SUPERVISORS  
OF  
COUNTY OF CUMBERLAND, VIRGINIA  
RESOLUTION  
ADOPTING AMENDMENT TO THE  
CODE OF CUMBERLAND COUNTY:  
CODE AMENDMENT 08-07**

AN ORDINANCE TO ADD A NEW SECTION 3-1 TO A  
NEW CHAPTER 3, PUBLIC SAFETY, AUTHORIZING OFF-  
DUTY EMPLOYMENT BY DEPUTY SHERIFFS

**December 9, 2008**

At a meeting of the Board of Supervisors of Cumberland County, Virginia, in the Circuit Courtroom at Cumberland Courthouse, Virginia commencing at 7:00 p.m. on December 9, 2008, the following action was taken following a duly held public hearing during which time County staff provided a review of the code amendment proposal and members of the public offered comment:

On a motion made by Supervisor Kennell, it was moved that the Board of Supervisors of Cumberland County approve and adopt, in accordance with the following Resolution, an ordinance amending the Code of Cumberland County to authorize off-duty employment by County deputies;

Following presentation of the Resolution and the draft text of the ordinance, the Board of Supervisors adopted and approved the Resolution and revisions to the County Code according to the votes stated below:

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<u>Present:</u>	<u>Vote:</u>
William F. Osl, Jr., Chairman	aye
Timothy Kennell	aye
Van H. Petty	aye
Elbert R. Womack	aye
Robert J. Oertel	aye

Absent: None

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**WHEREAS**, Code of Virginia § 15.2-1712 states that police officers and deputy sheriffs may engage in off-duty employment occasionally requiring the use of their police powers in the performance of such employment provided that the locality shall adopt an ordinance authorizing such employment; and

**WHEREAS**, the Board of Supervisors duly advertised and held a public hearing on November 12, 2008 to present and discuss the proposed County Code Amendment addressing such off-duty employment; and

**WHEREAS**, the Board of Supervisors carefully considered the testimony and evidence presented at the public hearing in support or opposition to the proposed County Code Amendment; and

**WHEREAS**, after discussion, staff presentation and due deliberation with respect to such information, including information and materials presented at a public hearing, and the comments from County residents and the general public in support or opposition to the proposed County Code Amendment, the Board of Supervisors desires to affirm its findings and to take action with respect to the County Code Amendment; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Cumberland County Board of Supervisors that:**

a. The Board of Supervisors, after due consideration of public comment received, determines that the County Code Amendment is consistent with, and substantially in accord with, the County's objectives with regard to public safety and is consistent with the public necessity and convenience.

b. Upon consideration of the proposed text, testimony, staff remarks, and public comment, the Board of Supervisors amends the County Code to add Section 3-1 to a new Chapter 3, Public Safety and that such Section shall read as follows:

**Sec. 3-1. Off-Duty Employment by Deputy Sheriffs.**

(a) Deputy sheriffs may engage in off-duty employment which may require the use of their police powers in the performance of such employment. Compensation paid to such personnel performing off-duty activities shall be reimbursed by the employing organization directly to the county treasurer.

(b) The sheriff shall have the authority to promulgate reasonable rules and regulations applicable to off-duty employment of deputy sheriffs. Such employment may continue pursuant to the terms of this section and reasonable rules and regulations promulgated hereunder as long as the deputies so employed are covered by the office of risk management self-insurance pool for moonlighting activities.

c. This resolution is effective immediately.

**4) Departments and Agencies -**

a) Dr. Jim Thornton

Dr. Thornton was accompanied by students participating in the New Beginnings program. The students performed a poetic presentation for the Board titled "Do you have high expectations for us?" The students told the Board that they had high expectations for themselves and asked the Board, and the community not to give up on

them and their teachers. Board members applauded the students and Dr. Thornton for their hard work.

The Chairman presented Dr. Thornton with a framed article and memorabilia from the ribbon-cutting ceremony for the new Middle/High School Complex, and thanked Dr. Thornton for all that he has done.

b) Kenny Gann – Allied Waste

Mr. Gann informed the Board that Phase I construction is on schedule and has an estimated completion timeline of the end of 2008 to early in the first quarter of 2009. Phase II construction has begun, and the temporary bridge is currently in use. Construction on the permanent bridge will be on going but intermittent depending on weather and site conditions. Phase's II and III have a scheduled completion of late spring of 2009.

The Solid waste facility permit, Part A, was received in May 2008, and there is no further action required for Part A. The second list of questions from DEQ was received by Allied on November 7, 2008. Due to a change in DEQ Personnel, a meeting has been scheduled the week of December 15<sup>th</sup>, to review the permit. Other permits are currently being processed by appropriate agencies. The Part B Permit is expected to be drafted in March 2009.

c) Aaron Hickman – interoperability report

IT Director, Aaron Hickman, informed the Board that the County has reached interoperability to the fullest extent possible. Each Department has hand-held radio that enables them to communicate with each agency directly. Mr. Hickman stated that this was an amazing project, and he is very proud to have worked on it.

d) Richard Woody – County recycling report

Senior Landfill Inspector, Richard Woody, reviewed the totals for recycling in the County for 2008. A CIP request has been submitted for three 8'x12' buildings to be located at each transfer station. The purpose of these buildings is for collection and storage of

recyclable electronic items, florescent and metal halide tubes and bulbs. The purpose of this is to keep lead, mercury, nickel, cadmium and other toxins out of the landfill and out of the ground. Another purpose for the buildings would be to collect items for the Clothes Closet. Having collection sites may help encourage citizens to donate clothes, toys, and other items.

5) **Assistant County Administrator/Finance Report –**

- a.) Consent Agenda-
  - 1) Approval of Minutes – November 2008
  - 2) Approval of Bills- November and December 2008  
Approved Bills for December 2008 total \$113,848.47. Ratified bills for November 2008 of warrants total \$ 450,897.42 with check numbers ranging from 55037 to 55268. Direct deposits for November 2008 total \$ 143,343.46.
  - 3) Appropriation to the Clerk’s Office - \$5,842.00 reimbursed from the VA Circuit Court Records Preservation Program Grant

On a motion by Supervisor Womack and carried, the Board approved the consent agenda:

VOTE:      Mr. Osl – aye      Mr. Kennell – aye  
              Mr. Petty – aye      Mr. Womack – aye  
              Mr. Oertel – aye

b) Monthly Budget Report-

Ms. Matthews reviewed the monthly budget report and informed the Board that the expenses for the Sheriff Department are skewed as there have been grant funds expended, but not yet refunded to the County.

c) Short-Term Financing Report -

Mrs. Matthews reviewed the Short-Term Financing Report and informed the Board that all of the construction funds have been expended with the exception of \$2.89 million in retainage. Mrs.

Matthews stated that the Board members will see a different report next month that will summarize the entire financing project so that they will see a broader picture of where all of the debt lies.

6) **Planner/Zoning Administrator, Andrew Sorrell -**

a) Update on Recycling Taskforce/ordinance

Zoning Administrator, Andrew Sorrell informed the Board that the Recycling taskforce held a meeting on November 25<sup>th</sup>, 2008 at which there were representatives of Allied Waste, and the Cumberland High School Recycling club present. The next meeting will be held on December 30, 2008 at 4:30 p.m. Staff is preparing a draft ordinance for the committee to review at that time.

b) Report on the E&S review

The Department of Environmental Quality (DEQ) has reviewed the County's Erosion and Sediment Control Program, and found the program to be inconsistent with the State regulations. A corrective action agreement will need to be executed that will allow the County to be conditionally consistent with the State Code until the programs deficiencies have been addressed. The County has four months in order to correct any issues. The biggest task will be updating the County ordinances to comply with State Code.

c) Update on A-20 District

The Planning Commission held a public hearing on November 17, 2008, at which time they recommended the Board approve an A-20 District. The Commissioners wanted a policy document and map to accompany the proposed A-20 District as to the areas in the county that should remain rural. The Code amendment should come before the Board in February 2009.

d) Referral of Patriot Ridge rezoning application to the Planning Commission for consideration/action

Staff has received a rezoning application submitted November 3, 2008. The application requests to rezone a 20 acre portion of the

Burleigh Hall tract (TM# 57-A-24) from R-2/A-2 to B-1 in order to develop the property as a shopping center. The property is located within the County's designated growth area adjacent to the Courthouse. Mr. Sorrell requests that the Board refer this request to the Planning Commission for review/action.

On a motion by Supervisor Petty and carried, the Board referred this request to the Planning Commission for review and/or action:

VOTE: Mr. Osl – aye Mr. Kennell – aye  
Mr. Petty – aye Mr. Womack – aye  
Mr. Oertel – aye

**7) County Administrator's Report –**

a) Appointment to FAPT – consider Linda Eanes

On a motion by the Chairman and carried, the Board appointed Linda Eanes to the Family Assessment and Planning Team (FAPT):

VOTE: Mr. Osl – aye Mr. Kennell – aye  
Mr. Petty – aye Mr. Womack – aye  
Mr. Oertel – aye

b) Request Board's consideration of awarding contract to Draper Aden as sole source for engineering services on three closed landfill sites

County Administrator, Judy Ownby, informed the Board that Draper Aden has been monitoring the three closed landfill sites since 1998. Draper Aden also has a history dating back to 1993 with leachate sampling. With that history, the County would like to continue to use this company. Although they are not one of the County's General Engineering firms, County Attorney, Howard Estes has advised that in this case, the Board would be justified in awarding a sole source contract with Draper Aden.

On a motion by Supervisor Womack and carried, the Board awarded a sole source contract to Draper Aden for the engineering services on the three closed landfill sites:

VOTE:      Mr. Osl – aye      Mr. Kennell – aye  
              Mr. Petty – aye      Mr. Womack – aye  
              Mr. Oertel – aye

8) **Assistant County Administrator/Community Development**

a) Update on projects

1) Museum -

Mr. Cooper stated that staff has submitted all requested documents to VDoT and are awaiting their response. Staff will continue to inform the Board of any updates as they become available.

2) Wireless Broadband

Mid-Atlantic Broadband Cooperative has begun running fiber optic line through the Courthouse area. This is expected to be complete by the end of January 2009. At that time, there will be an opportunity for service providers to begin offering services.

3) Proposed waterline extension

Mr. Cooper informed the Board that additional input from the Board members is needed, and requested that a workshop be set with representatives from Draper Aden. It was the consensus of the Board to set a workshop on January 14, 2009 at 9 a.m. in the Old Clerk's Office.

9) **County Attorney's Report -**

a) Randolph Fire Department Lease -

County Attorney, Howard Estes, reviewed the final draft of the lease of the Randolph Fire Department building. Assistant County Administrator/Finance, Jill Matthews, informed the board that Roy Garrett had voiced concerns of the Fire Department with the lease. The Fire Department felt that the length of lease was too short, they disagreed with the County having first priority for the use of the common areas, and that the repair cost for the main mechanics of the building should be the responsibility of the county to replace. County Attorney Howard Estes advised the Board that the term of the lease is for 10 years, but it is automatically renewed annually. The Board amended the maintenance provision to state that any repair in excess of \$500.00 would be the responsibility of the County, and made other minor revisions.

On a motion by Supervisor Womack and carried, the Board approved the amended Randolph Fire Department Lease (a copy of the lease is located in the Official Board file):

VOTE:      Mr. Osl – aye      Mr. Kennell – aye  
              Mr. Petty – aye      Mr. Womack – aye  
              Mr. Oertel – aye

b) Resolution authorizing and ratifying sole source procurement of wetlands mitigation contract

After review of the resolution by County Attorney, Howard Estes, and a motion made by the Chairman and carried, the Board adopted the resolution authorizing and ratifying sole source procurement of a wetlands mitigation contact:

**BOARD OF SUPERVISORS  
OF  
COUNTY OF CUMBERLAND, VIRGINIA  
- RESOLUTION -  
AUTHORIZING AND RATIFYING SOLE SOURCE  
PROCUREMENT OF WETLANDS MITIGATION CONTRACT  
FOR CUMBERLAND COUNTY**

**December 9, 2008**

At a meeting of the Board of Supervisors of Cumberland County, Virginia, in the Circuit Courtroom at Cumberland Courthouse, Virginia commencing at 7:00 p.m. on December 9, 2008, the following action was taken:

On a motion made by The Chairman, it was moved that the Board of Supervisors of Cumberland County approve and adopt the following Resolution authorizing a sole source procurement and ratifying a contract for wetlands mitigation related to the Cobb's Creek Reservoir project;

Following presentation of the Resolution, the Board of Supervisors adopted and approved the Resolution according to the votes stated below:

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<u>Present:</u>	<u>Vote:</u>
William F. Osl, Jr., Chairman	aye
Timothy Kennell	aye
Van H. Petty	aye
Elbert R. Womack	aye
Robert J. Oertel	aye
<u>Absent:</u>	None

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**WHEREAS**, Cumberland County has previously authorized and directed County staff to enter into contracts for services related to the development of a proposed reservoir to be located in the County and known as the Cobb's Creek Reservoir (the "Project"); and

**WHEREAS**, the Virginia Department of Environmental Quality ("DEQ") issued its permit for the Project on October 12, 2007; and

**WHEREAS**, DEQ further conditioned the permit for the Project on the County providing for wetlands mitigation and further advised the County in the permit that the mitigation is to be as proximate to the site of the proposed Project as possible; and

**WHEREAS**, the permit specifically directs the County to provide off-site compensation for wetlands impacts at a site called the Swift Island compensation site located in Buckingham County, Virginia; and

**WHEREAS**, to comply with the permit requirements the County was presented with and did execute a contract for wetlands mitigation with Mitigation Services, Inc., owner of the Swift Island compensation site;

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Cumberland County Board of Supervisors that:**

- d. The Board of Supervisors determines that, in light of the foregoing recitals and pursuant to and in compliance with Virginia Code § 2.2-4303 E, there is only one source practicably available for wetlands mitigation for the Project.
- e. The Board of Supervisors authorizes and directs the County staff to provide due notice of such sole source determination and award for the wetlands mitigation for the Project.

- f. After due consideration of the wetlands mitigation contract for the Project, the Board of Supervisors hereby further approves and adopts the contract for wetlands mitigation for the Project with Mitigation Services, Inc. and hereby ratifies execution of said contract of May 8, 2008 and any other action by County officials and staff consistent with this Resolution.
- g. This Resolution is effective immediately.

**10) Board Member Comments-**

The Chairman reminded the Board members of the Christmas Parade this Sunday, December 14<sup>th</sup>, 2008 at 2 p.m., and wished each of them a Merry Christmas and a Happy New Year.

Supervisor Kennell thanked all the citizens and county staff that have made his first year as Supervisor a wonderful and painless experience.

Supervisor Petty wished everyone a Merry Christmas, and a Happy New Year.

Supervisor Womack informed the Board that he had attended a smart growth land preservation workshop in Powhatan, and it was very beneficial. He wished everyone Happy Holidays, and is looking forward to next year. The Chairman suggested, and it was the consensus of the Board, to schedule a Smart growth workshop in the beginning of next year.

Supervisor Oertel asked the name of the contractor that is installing the tiles for the Generations Courtyard. The Chairman stated he would check into it. Supervisor Oertel requested that the Sesquicentennial Committee meeting minutes be submitted to the Board for review.

**11) Public Comments**

There were no citizens signed up to speak.

**12) Additional Information-**

**13) Adjourn-**

The Chairman adjourned the meeting until the next regular meeting of the Board to be held on January 13<sup>th</sup>, 2009 at 7 p.m. in the Cumberland Courthouse, Circuit Courtroom.

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Chairman

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County Administrator